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THE ASSAM CODE.

IN TWO VOLUMES

CONTAINING

THE REGULATIONS AND LOCAL ACTS IN FORCE IN THE PROVINCE OF ASSAM ;

WITH

CHRONOLOGICAL TABLES, NOTES AS TO SCHEDULED DISTRICTS, AND DE-REGULATIONISED TRACTS AND AN INDEX.

VOLUME I.

BENGAL REGULATIONS. LOCAL ACTS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL AND REGULATIONS MADE UNDER THE GOVERNMENT OF INDIA ACT, 1870.

CALCUTTA
SUPERINTENDENT GOVERNMENT PRINTING, INDIA
1915

Price Three Rupees.
English Price, Four Shillings and Six Pence.

PREFACE.

THIS, the Assam Code, is published in two volumes, and contains the local enactments in force in the territories (or any part of the territories) under the administration of the Chief Commissioner of Assam It has been prepared on the same lines as the Eastern Bengal and Assam Code, which was published in 1907

2 The first volume contains the Bengal Regulations, the local Acts of the Governor General of India in Council and the Regulations made under the Government of India Act, 1870 (33 & 34 Vict , c 3), in force in Assam, respectively

3 The second volume contains the Acts of the Lieutenant-Governor of Bengal in Council, and the Acts of the Lieutenant-Governor of Eastern Bengal and Assam in Council in force in Assam, respectively Two Appendices similar to the Appendices contained in the third volume of the Eastern Bengal and Assam Code and an Index, have been appended to this volume Appendix I contains explanatory notes and shows (*a*) the enactments in force in Assam under the Scheduled Districts Act, 1874 (XIV of 1874), (*b*) the enactments which have been declared under that Act to be not actually in force in Assam, and (*c*) the Scheduled Districts which are administered under rules made under section 6 of the same Act Appendix II also contains explanatory notes and shows the areas in Assam to which the Assam Frontier Tracts Regulation, 1880 (II of 1880), applies and the areas in which the operation of enactments has been barred by notification under that Regulation

4. The enactments are printed as modified up to the end of the year 1914. No enactments have been passed by the Chief Commissioner of Assam in Council during the years 1912 to 1914 To each volume a Chronological Table has been prefixed showing how the enactments printed in the volume have been affected in Assam by later legislation

5 This Code was prepared for the Press by Rai Bahadur Dr. S C Banerjee, D L , late Legal Assistant, Legislative Department, but changes resulting from legislation (applicable to Assam) after March, 1914, have since been incorporated

S C GUPTA,
Legal Assistant, Legislative Department,
Government of India

SIMLA ,
The 6th April 1915

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[With respect to the entry of repealing enactments in column 4 of these Tables, the following has been the ordinary practice —

(1) where an enactment has been totally repealed more than once, the latest repealing enactment has alone been entered,

(2) where an enactment has been partially repealed and afterwards totally repealed, the total repeal only has been entered a repeal of the unrepealed portions of an enactment is treated as a total repeal,

(3) partial repeals covered by later partial repeals have not been entered,

(4) local repeals covered by later local repeals have not been entered,

(5) where an enactment has been locally repealed and afterwards repealed by an enactment whose operation is unrestricted, the later repealing enactment has alone been entered]

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Year	No	Short title	How repealed or otherwise affected in Assam by legislation	Page
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1	2	3	4	5
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Year.	No.	Short title.	How repealed or otherwise affected in Assam by legislation.	Page.
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[1] *Sic. Read* 1886.

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[2] This short title was given by Notification No 13, dated 11th October, 1875, in *Gazette of India*, 1875, Pt 1, p 529

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Year.	No.	Short title.	How repealed or otherwise affected in Assam by legislation.	Page.
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THE ASSAM CODE, 1914.

VOLUME I

BENGAL REGULATIONS, LOCAL ACTS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL AND REGULATIONS MADE UNDER THE GOVERNMENT OF INDIA ACT, 1870 (33 & 34 VICT, c 3)

PART I—BENGAL REGULATIONS IN FORCE IN THE PROVINCE OF ASSAM

BENGAL REGULATION 1 OF 1793

(THE BENGAL PERMANENT SETTLEMENT REGULATION, 1793)

CONTENTS

SECTION

BENGAL REGULATION 1 OF 1793.

(THE BENGAL PERMANENT SETTLEMENT REGULATION, 1793). [1]

[1*st May*, 1793.]

A Regulation for enacting into a Regulation certain Articles of a Proclamation bearing date the 22nd March, 1793.

1. The following articles of the proclamation relative to the limitation of the public demand upon the lands, addressed by the Governor General in Council to the zamindars, independent talukdars and other actual proprietors of land paying revenue to Government, in the Provinces of Bengal, Bihar and Orissa, are hereby enacted into a Regulation, which is to have force and effect from the 22nd March, 1793, the date of the proclamation.

PROCLAMATION.

2. Art. I.—In the original Regulations for the decennial settlement of the public revenues of Bengal, [Bihar and Orissa,] passed for those Provinces respectively on the 18th September, 1789, the 25th November, 1789, and the 10th February, 1790, it was notified to the proprietors of land, with or on

[1] SHORT TITLE.—This short title was given by the Amending Act, 1897 (V of 1897), Sch. III—*see post.*

LOCAL EXTENT.—This Regulation has been declared, by notification under the Scheduled Districts Act, 1874 (IV of 1874), section 3, to be in force in the Scheduled Districts of Goalpara (excluding the Eastern Duars) and Sylhet—*see*, Vol. II, Appendix I, Table B.

RULES AND ORDERS RELATING TO LAND-REVENUE, APPLICABLE IN ASSAM.—*See* footnote [1] to the Assam Land and Revenue Regulation, 1886 (I of 1886), *post.*

behalf of whom a settlement might be concluded, that the jama assessed upon their lands under those Regulations would be continued after the expiration of the ten years, and remain unalterable for ever, provided such continuance should meet with the approbation of the Honourable Court of Directors for the affairs of the East India Company, and not otherwise

3. Art II —The Marquis Cornwallis, Knight of the Most Noble Order of the Garter, Governor General in Council, now notifies to all zamindars, independent talukdars and other actual proprietors of land paying revenue to Government, in the provinces of Bengal Bihar and Orissa, that he has been empowered by the Honourable Court of Directors for the affairs of the East India Company to declare the jama, which has been or may be assessed upon their lands under the Regulations above mentioned, fixed for ever

Power to declare jama assessed upon lands under those Regulations, fixed for ever

4. Art III —The Governor General in Council accordingly declares to the zamindars, independent talukdars and other actual proprietors of land with or on behalf of whom a settlement has been concluded under the Regulations above mentioned, that at the expiration of the term of the settlement no alteration will be made in the assessment which they have respectively engaged to pay, but that they and their heirs and lawful successors will be allowed to hold their estates at such assessment for ever

Jama assessed upon lands of proprietors with whom settlement concluded, fixed for ever.

5. Art IV —The lands of some zamindars independent talukdars and other actual proprietors of land, having been held khas, or let in farm, in consequence of their refusing to pay the assessment required of them under the Regulations above mentioned, the Governor General in Council now notifies to the zamindars, independent talukdars and other actual proprietors of land whose lands are held khas that they shall be restored to the management of their lands, upon their agreeing to the payment of the assessment which has been or may be required of them, in conformity to the Regulations abovementioned, and that no alteration shall afterwards be made in that assessment, but that they, and their heirs and lawful successors, shall be permitted to hold their respective estates at such assessment for ever

Jama hereafter agreed to by proprietors whose lands are held khas, or let in farm, fixed for ever

and he declares to the zamindars, independent talukdars and other actual proprietors of land, whose lands have been let in farm, that they shall not regain possession of their lands before the expiration of the period for which they have been farmed (unless the farmers shall voluntarily consent to make over to them the remaining term of their lease, and the Governor General in Council shall approve of the transfer), but that at the expiration of that period, upon their agreeing to the payment of the assessment which may be required of them, they shall be re instated, and that no alteration shall afterwards be made in that assessment, but that they, and their heirs and lawful successors, shall be allowed to hold their respective estates at such assessment for ever

6. Art V —In the event of the proprietary right in lands that are, or may become, the property of Government being transferred to individuals, such individuals, and their heirs and lawful successors, shall be permitted to

Jama of lands belonging to Government, but transfer-

red to individuals, fixed for ever. hold the lands at the assessment at which they may be transferred for ever.

Assessment in former times liable to variation at discretion of Government. 7. Art. VI.—It is well known to the zamindars, independent talukdars and other actual proprietors of land, as well as to the inhabitants of Bengal, Bihar and Orissa, in general, that from the earliest times until the present period the public assessment upon the land has never been fixed, but that, according to established usage and custom, the rulers of these provinces have from time to time demanded an increase of assessment from the proprietors of land; and that, for the purpose of obtaining this increase, not only frequent investigations have been made to ascertain the actual produce of their estates, but that it has been the practice to deprive them of the management of their lands, and either to let them in farm, or to appoint officers on the part of Government to collect the assessment immediately from the raiyats.

Motives of Court of Directors for abolishing usage and fixing assessment. The Honourable Court of Directors, considering these usages and measures to be detrimental to the prosperity of the country, have, with a view to promote the future ease and happiness of the people, authorized the foregoing declarations; and the zamindars, independent talukdars and other actual proprietors of land, with or on behalf of whom a settlement has been or may be concluded, are to consider these orders fixing the amount of the assessment as irrevocable, and not liable to alteration by any persons whom the Court of Directors may hereafter appoint to the administration of their affairs in this country.

Proprietors expected to improve estates. The Governor General in Council trusts that the proprietors of land, sensible of the benefits conferred upon them by the public assessment being fixed for ever, will exert themselves in the cultivation of their lands, under the certainty that they will enjoy exclusively the fruits of their own good management and industry, and that no demand will ever be made upon them, or their heirs or successors, by the present or any future Government, for an augmentation of the public assessment in consequence of the improvement of their respective estates.

Conduct to be observed by proprietors towards dependent talukdars and raiyats. To discharge the revenues at the stipulated periods without delay or evasion and to conduct themselves with good faith and moderation towards their dependent talukdars and raiyats, are duties at all times indispensably required from the proprietors of land, and a strict observance of those duties is now more than ever incumbent upon them, in return for the benefits which they will themselves derive from the orders now issued.

The Governor General in Council therefore expects that the proprietors of land will not only act in this manner themselves towards their dependent talukdars and raiyats, but also enjoin the strictest adherence to the same principles in the persons whom they may appoint to collect the rents from them.

No claims for remissions or suspensions. He further expects that, without deviating from this line of conduct, they will regularly discharge the revenue in all seasons; and he accordingly notifies to them, that, in future, no claims or application for suspensions or remissions, on account of drought, inundation or other calamity of season, will be attended

to, but that in the event of any zamindar, independent talukdar or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, or his or her heirs or successors, failing in the punctual discharge of the public revenue which has been or may be assessed upon their lands under the above mentioned Regulations, a sale of the whole of the lands of the defaulter, or such portion of them as may be sufficient to make good the arrear, will positively and invariably take place Sale of lands for arrears

8. Art VII —To prevent any misconstruction of the foregoing articles the Governor General in Council thinks it necessary to make the following declarations to the zamindars, independent talukdars and other actual proprietors of land

First —It being the duty of the ruling power to protect all classes of people and more particularly those who from their situation are most helpless, the Governor General in Council will, whenever he may deem it proper, enact such Regulations as he may think necessary for the protection and welfare of the dependent talukdars, raiyats and other cultivators of the soil, and no zamindar, independent talukdar or other actual proprietor of land shall be entitled on this account to make any objection to the discharge of the fixed assessment which they have respectively agreed to pay Regulations for protection of raiyats, &c

Second —The Governor General in Council having, on the 28th July, 1790, directed the sáir collections to be abolished, a full compensation was granted to the proprietors of land for the loss of revenue sustained by them in consequence of this abolition, and he now declares that, if he should hereafter *think it proper to re establish the sáir collections or any other internal duties*, and to appoint officers on the part of Government to collect them, no proprietor of land will be admitted to any participation thereof or be entitled to make any claims for remissions of assessment on that account Right of Government to all internal duties,

Third —The Governor General in Council will impose such assessment as he may deem equitable on all lands at present alienated and paying no public revenue which have been or may be proved to be held under illegal or invalid titles and to jama on alienated lands

The assessment so imposed will belong to Government, and no proprietor of land will be entitled to any part of it

Fourth —The jama of those zamindars, independent talukdars and other actual proprietors of land, which is declared fixed in the foregoing articles, is to be considered entirely unconnected with, and exclusive of, any allowances which have been made to them in the adjustment of their jama, for keeping up thanas or police establishments, and also of the produce of any lands which they may have been permitted to appropriate for the same purpose, and the Governor General in Council reserves to himself the option of resuming the whole or part of such allowances, or produce of such lands, according as he may think proper in consequence of his having exonerated the proprietors of land from the charge of keeping the peace, and appointed officers on the part of Government to superintend the police of the country. Resumption of police allowances to proprietors.

red to individuals, fixed for ever.

hold the lands at the assessment at which they may be transferred for ever.

Assessment in former times liable to variation at discretion of Government.

7. Art. VI.—It is well known to the zamindars, independent talukdars and other actual proprietors of land, as well as to the inhabitants of Bengal, Bihar and Orissa, in general, that from the earliest times until the present period the public assessment upon the land has never been fixed, but that, according to established usage and custom, the rulers of these provinces have from time to time demanded an increase of assessment from the proprietors of land; and that, for the purpose of obtaining this increase, not only frequent investigations have been made to ascertain the actual produce of their estates, but that it has been the practice to deprive them of the management of their lands, and either to let them in farm, or to appoint officers on the part of Government to collect the assessment immediately from the raiyats.

Motives of Court of Directors for abolishing usage and fixing assessment.

The Honourable Court of Directors, considering these usages and measures to be detrimental to the prosperity of the country, have, with a view to promote the future ease and happiness of the people, authorized the foregoing declarations; and the zamindars, independent talukdars and other actual proprietors of land, with or on behalf of whom a settlement has been or may be concluded, are to consider these orders fixing the amount of the assessment as irrevocable, and not liable to alteration by any persons whom the Court of Directors may hereafter appoint to the administration of their affairs in this country.

Proprietors expected to improve estates.

The Governor General in Council trusts that the proprietors of land, sensible of the benefits conferred upon them by the public assessment being fixed for ever, will exert themselves in the cultivation of their lands, under the certainty that they will enjoy exclusively the fruits of their own good management and industry, and that no demand will ever be made upon them, or their heirs or successors, by the present or any future Government, for an augmentation of the public assessment in consequence of the improvement of their respective estates.

Conduct to be observed by proprietors towards dependent talukdars and raiyats.

To discharge the revenues at the stipulated periods without delay or evasion and to conduct themselves with good faith and moderation towards their dependent talukdars and raiyats, are duties at all times indispensably required from the proprietors of land, and a strict observance of those duties is now more than ever incumbent upon them, in return for the benefits which they will themselves derive from the orders now issued.

The Governor General in Council therefore expects that the proprietors of land will not only act in this manner themselves towards their dependent talukdars and raiyats, but also enjoin the strictest adherence to the same principles in the persons whom they may appoint to collect the rents from them.

No claims for remissions or suspensions.

He further expects that, without deviating from this line of conduct, they will regularly discharge the revenue in all seasons; and he accordingly notifies to them, that, in future, no claims or application for suspensions or remissions, on account of drought, inundation or other calamity of season, will be attended

to, but that in the event of any zamindar, independent talukdar or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, or his or her heirs or successors, failing in the punctual discharge of the public revenue which has been or may be assessed upon their lands under the above mentioned Regulations, a sale of the whole of the lands of the defaulter, or such portion of them as may be sufficient to make good the arrear, will positively and invariably take place

Sale of lands for arrears

8. Art VII —To prevent any misconstruction of the foregoing articles the Governor General in Council thinks it necessary to make the following declarations to the zamindars, independent talukdars and other actual proprietors of land

Regulations for protection of raiyats, &c

First —It being the duty of the ruling power to protect all classes of people and more particularly those who from their situation are most helpless, the Governor General in Council will, whenever he may deem it proper, enact such Regulations as he may think necessary for the protection and welfare of the dependent talukdars, raiyats and other cultivators of the soil, and no zamindar, independent talukdar or other actual proprietor of land shall be entitled on this account to make any objection to the discharge of the fixed assessment which they have respectively agreed to pay

Right of Government to all internal duties,

Second —The Governor General in Council having, on the 28th July, 1790, directed the sáir collections to be abolished, a full compensation was granted to the proprietors of land for the loss of revenue sustained by them in consequence of this abolition, and he now declares that, if he should hereafter think it proper to re establish the sair collections or any other internal duties, and to appoint officers on the part of Government to collect them, no proprietor of land will be admitted to any participation thereof, or be entitled to make any claims for remissions of assessment on that account

[illegible]

Third —The Governor General in C [illegible]
he may deem equitable on all lands at [illegible]
revenue which have been or may be pr[illegible]
titles

The assessment so imposed will belong to Government, and no proprietor of land will be entitled to any part of it

[illegible]

Fourth —The jama of those zamindars, independent talukdars and other actual proprietors of land, which is declared fixed in the foregoing articles, is to be considered entirely unconnected with, and exclusive of, any allowances which have been made to them in the adjustment of their jama, for keeping up thanas or police establishments and also of the produce of any lands which they may have been permitted to appropriate for the same purpose, and the Governor General in Council reserves to himself the option of resuming the whole or part of such allowances, or produce of such lands, according as he may think proper in consequence of his having exonerated the proprietors of land from the charge of keeping the peace, and appointed officers on the part of Government to superintend the police of the country

The Governor General in Council, however, declares that the allowances or produce of lands which may be resumed will be appropriated to no other purpose but that of defraying the expense of the police; and that instructions will be sent to the Collectors not to add such allowances, or the produce of such lands, to the jama of the proprietors of land, but to collect the amount from them separately.

Estates of disqualified proprietors not liable to sale for arrears.

Fifth.—Nothing contained in this proclamation shall be construed to render the lands of the several descriptions of disqualified proprietors, specified in the first Article of the Regulations regarding disqualified landholders, passed on the 15th July, 1791, liable to sale for any arrears which have accrued or may accrue on the fixed jama that has been or may be assessed upon their lands under the above-mentioned Regulations for the decennial settlement: provided that such arrears have accrued or may accrue during the time that they have been or may be dispossessed of the management of their lands under the said Regulations of the 15th July, 1791.

It is to be understood, however, that whenever all or any of the descriptions of disqualified landholders, specified in the first Article of the last-mentioned Regulations, shall be permitted to assume or retain the management of their lands, in consequence of the ground of their disqualification no longer existing, or of the Governor General in Council dispensing with, altering or abolishing those Regulations, the lands of such proprietors will be held responsible for the payment of the fixed jama that has been or may be assessed thereon, from the time that the management may devolve upon them, in the same manner as the lands of all actual proprietors of land who are declared qualified for the management of their estates, and also of all actual proprietors who are unqualified for such management, by natural or other disabilities, but do not come within the descriptions of disqualified landholders specified in the first Article of the Regulations of the 15th July, 1791, are and will be held answerable, for any arrears that are or may become due from them, on the fixed jama which they, or any persons on their behalf, have engaged or may engage to pay, under the above-mentioned Regulations, for the decennial settlement.

Proprietors may transfer lands without sanction of Government.

9. Art. VIII.—That no doubt may be entertained whether proprietors of land are entitled, under the existing Regulations, to dispose of their estates without the previous sanction of Government, the Governor General in Council notifies to the zamindars, independent talukdars and other actual proprietors of land that they are privileged to transfer to whomsoever they may think proper, by sale, gift or otherwise, their proprietary rights in the whole or any portion of their respective estates, without applying to Government for its sanction to the transfer, and that all such transfers will be held valid.

Proviso.

Provided that they be conformable to the Muhammadan or the Hindu laws (according as the religious persuasions of the parties to each transaction may render the validity of it determinable by the former or the latter Code),

and that they be not repugnant to any Regulations now in force, which have been passed by the British administrations, or to any Regulations that they may hereafter enact

Rules for apportionin fixed jama c portions of estates in event of sale or transfer and on shar of estates

[1]**10.** Art IX —From the limitation of the public demand upon the lands, the net income, and consequently the value (independent of increase of rent obtainable by improvements), of any landed property, for the assessment on which a distinct engagement has been or may be entered into, between Government and the proprietor, or that may be separately assessed, although included in one engagement with other estates belonging to the same proprietor, and which may be offered for public or private sale entire, will always be ascertainable by a comparison of the amount of the fixed jama assessed upon it (which, agreeable to the foregoing declarations, is to remain unalterable for ever, to whomsoever the property may be transferred), with the whole of its produce, allowing for the charges of management

But it is also essential that a notification should be made of the principles upon which the fixed assessment charged upon any such estate will be apportioned on the several divisions of it, in the event of the whole of it being transferred by public or private sale, or otherwise, in two or more lots, or of a portion of it being transferred in one, or in two or more lots, or of its being joint property, and a division of it being made amongst the proprietors, otherwise, from the want of a declared rule for estimating the proportion of the fixed jama with which the several shares would be chargeable in such cases, the real value of each share would be uncertain, and consequently the benefits expected to result from fixing the public assessment upon the lands would be but partially obtained

The Governor General in Council has accordingly prescribed the following rules for apportioning the fixed assessment in the several cases above mentioned, but as Government might sustain a considerable loss of revenue by disproportionate allotments of the assessment, were the apportioning of it, in any of the cases above specified, to be left to the proprietors, he requires that all such transfers or divisions as may be made by the private act of the parties themselves be notified to the Collector [2] of the revenue of the zila in which the lands may be situated or such other officer as Government may in future prescribe, in order that the fixed jama, assessed upon the whole estate, may be apportioned on the several shares in the manner hereafter directed, and that the names of the proprietors of each share and the jama charged thereon may be entered upon the public registers, and that separate engagements for the payment of the jama assessed upon each share may be executed by the proprietors, who will thenceforward be considered as actual proprietors of land

[1] The application of this section, as extended by the [illegible]

[2] In Assam, the Deputy Commissioner

And the Governor General in Council declares that, if the parties to such transfers or divisions shall omit to notify them to the Collector [1] of the revenue of the zila or such other officer as may be hereafter prescribed, for the purposes before-mentioned, the whole of such estate will be held responsible to Government for the discharge of the fixed jama assessed upon it, in the same manner as if no such transfer or division had ever taken place.

The Governor General in Council thinks it necessary further to notify, in elucidation of the declarations contained in this Article (which are conformable to the principles of the existing Regulations), that if any zamindar, independent talukdar or other actual proprietor of land shall dispose of a portion of his or her lands as a dependent taluk, the jama which may be stipulated to be paid by the dependent talukdar will not be entered upon the records of Government, nor will the transfer exempt such lands from being answerable, in common with the remainder of the estate, for the payment of the public revenue assessed upon the whole of it, in the event of the proprietor, or his or her heirs or successors, falling in arrear from any cause whatever, nor will it be allowed, in any case, to affect the rights or claims of Government, any more than if it had never taken place.

First.—In the event of the whole of the lands of a zamindar, independent talukdar or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, under the Regulations above-mentioned, being exposed to public sale by the order of the Governor General in Council, for the discharge of arrears of assessment, or in consequence of the decision of a Court of Justice, in two or more lots, the assessment upon each lot shall be fixed at an amount which shall bear the same proportion to its actual produce as the fixed assessment upon the whole of the lands sold may bear to the whole of their actual produce.

This produce shall be ascertained in the mode that is or may be prescribed by the existing Regulations, or such other Regulations as the Governor General in Council may hereafter adopt, and the purchaser or purchasers of such lands, and his or her or their heirs and lawful successors, shall hold them at the jama at which they may be so purchased, for ever.

Second.—When a portion of the lands of a zamindar, independent talukdar or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, under the Regulations before-mentioned, shall be exposed to public sale, by order of the Governor General in Council, for the liquidation of arrears of assessment, or pursuant to the decision of a Court of Justice, the assessment upon such lands, if disposed of in one lot, shall be fixed at an amount which shall bear the same proportion to their actual produce as the fixed assessment upon the whole of the lands of such proprietor, including those disposed of, may bear to the whole of their actual produce.

If the lands sold shall be disposed of in two or more lots, the assessment upon each lot shall be fixed at an amount which shall bear the same proportion

[1] In Assam, the Deputy Commissioner.

to its actual produce as the fixed assessment upon the whole of the lands of such proprietor, including those sold, may bear to the whole of their actual produce

The actual produce of the whole of the lands of such proprietor, whether the portion of them which may be sold be disposed of in one or in two or more lots, shall be ascertained in the mode that is or may be prescribed by the existing Regulations, or such other Regulations as the Governor General in Council may hereafter enact, and the purchaser or purchasers of such lands, and his or her or their heirs or successors, will be allowed to hold them at the jama at which they may be so purchased for ever, and the remainder of the public jama, which will consequently be payable by the former proprietor of the whole estate, on account of the portion of it that may be left in his or her possession, will continue unalterable for ever

Third—When a zamindar, independent talukdar or other actual proprietor of land, with or on behalf of whom a settlement has been or may be concluded, shall transfer the whole of his or her estate in two or more distinct portions, to two or more persons, or a portion thereof to one person, or to two or more persons in joint property, by private sale, gift or otherwise, the assessment upon each distinct portion of such estate so transferred shall be fixed at an amount which shall bear the same proportion to its actual produce as the assessment upon the whole of the estate of the transferring proprietor, of which the whole or a portion may be so transferred, may bear to the whole of its actual produce

This produce shall be ascertained in the mode that is or may be prescribed in the existing Regulations, or such other Regulations as Government may hereafter adopt, and the person or persons to whom such lands may be transferred, and his or her or their heirs and lawful successors shall hold them at the jama at which they may be so transferred for ever and where only a portion of such estate shall be transferred, the remainder of the public jama which will consequently be payable by the former proprietor of the whole estates [1] on account of the lands that may remain in his or her possession shall be continued unalterable for ever

Fourth—Whenever a division shall be made of lands, the settlement of which has been or may be concluded with or on behalf of the proprietor or proprietors, and that are or may become the joint property of two or more persons, the assessment upon each share shall be fixed at an amount which shall bear the same proportion to its actual produce as the fixed jama assessed upon the whole of the estate divided may bear to the whole of its actual produce

This produce shall be ascertained in the mode that is or may be prescribed by the existing Regulations or such other Regulations as the Governor General in Council may hereafter adopt, and the sharers, and their heirs and

[1] *Sic.* in Clarke

lawful successors, shall hold their respective shares at the jama which may be so assessed upon them, for ever.

Adjusting jama of lands held khas or let in farm.

[1] **11**. Art. X.—The following rules are prescribed respecting the adjustment of the assessment on the lands of zamindars, independent talukdars and other actual proprietors of land, whose lands are or may be held khas or let in farm, in the event of their being disposed of by public sale, or transferred, by any private act of the proprietor, or of their being joint property, and a division of them taking place amongst the proprietors.

First.—If the whole, or a portion of the lands of a zamindar, independent talukdar or other actual proprietor of land who may not have agreed to the payment of the assessment proposed to him or her under the Regulations above-mentioned, and whose lands are or may be held khas or let in farm, shall be exposed to public sale, in one or in two or more lots (pursuant to the decree of a Court of Justice), such lands, if khas, shall be disposed of at whatever assessment the Governor General in Council may deem equitable, and the purchaser or purchasers of such lands, and his or her or their heirs and lawful successors, shall hold the lands at the assessment at which they may be so purchased, for ever.

If the lands, at the time of their being exposed to sale, shall be held in farm, and shall be put up in one or in two or more lots, they shall be disposed of under the following conditions :—

The purchaser or purchasers shall receive, during the unexpired part of the term of the lease of the farmer, whatever such proprietor shall have been entitled to receive, in virtue of his or her proprietary rights, on account of the land so purchased, and such purchaser or purchasers shall engage to pay, at the expiration of the lease of the farmer, such assessment on account of the lands as Government may deem equitable.

The sum to be received by the purchaser or purchasers during the unexpired part of the term of the lease of the farmer, and the jama to be paid by such purchaser or purchasers after the expiration of the lease, shall be specified at the time of the sale, and such purchaser or purchasers, and his or her or their heirs and lawful successors, shall be allowed to hold the lands at the assessment at which they may be so purchased, for ever.

Second.—If a zamindar, independent talukdar or other actual proprietor of land, whose lands are or may be held khas or let in farm, shall transfer by private sale, gift or otherwise the whole or a portion of his or her lands in one or in two or more lots, the person or persons to whom the lands may be so transferred shall be entitled to receive from Government (if the lands are held khas), or from the farmer (if the lands are let in farm), the málikána to which the former proprietor was entitled on account of the land so transferred.

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[1] The application of s. 11 is extended by the Bengal Inheritance Regulation, 1793 (XI of 1793), s. 4, *post.*

So much of s. 11 as relates to the adjustment of the Government jama on lands exposed to public sale in satisfaction of decrees was repealed by Act IV of 1846, s. 1.

Persons to whom such lands may be so transferred will stand in the same predicament as the zamindars, independent talukdars or other actual proprietors of land mentioned in the fourth Article, whose lands are held khas, or have been let in farm, in consequence of their refusing to pay the assessment required of them under the before mentioned Regulations for the decennial settlement, and the declarations contained in that Article are to be held applicable to them

Third—In the event of a division being made of lands that are or may become the joint property of two or more persons, and which are or may be held khas or let in farm, the proprietors of the several shares will stand in the same predicament, with regard to their respective shares, as the zamindars, independent talukdars and other actual proprietors of land specified in the fourth Article, whose lands have been let in farm or are held khas in consequence of their having refused to pay the assessment required of them under the before mentioned Regulations for the decennial settlement, and the declarations contained in that Article are to be considered applicable to them.

BENGAL REGULATION 2 OF 1793

(THE BENGAL LAND REVENUE REGULATION, 1793)

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SECTION

SECTION.

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19. [*Repealed.*]
20. Collectors to keep records.
21—23. [*Repealed.*]
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26. Register of receipts for salaries, etc.
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34, 35. [*Repealed.*]
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BENGAL REGULATION 2 OF 1793.

(THE BENGAL LAND-REVENUE REGULATION, 1793). [1]

[1st *May*, 1793.]

A Regulation for abolishing the Courts of Mál Adálat or Revenue Courts, and transferring the trial of the suits which were cognizable in those Courts to the Courts of Diwáni Adálat; and prescribing Rules for the conduct of the Board of Revenue [2] and the Collectors.

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1. In the British territories in Bengal the greater part of the materials required for the numerous and valuable manufactures, and most of the other

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[1] SHORT TITLE.—This short title was given by the Amending Act, 1897 (V of 1897) Schedule III—*see post.*

LOCAL EXTENT.—This Regulation has been declared, by notification under the Scheduled Districts Act, 1874 (XIV of 1874), section 3, to be in force in the Scheduled District of Sylhet—*see* Vol. II, Appendix I, Table B.

PARTIAL REPEAL.—So much of this Regulation as requires the appointment of dewans in the different districts, or defines the duties of the dewans, or relates in any other manner, directly or indirectly, to those offices, was repealed by Bengal Regulation XV of 1813. Specific references in the Regulation to dewans were repealed by the Repealing Act, 1874 (XVI of 1874), and have been omitted—*see* footnotes, *post.*

[2] In Assam, the Chief Commissioner—*see* the Bengal, Bihar and Orissa and Assam Law Act, 1912 (VII of 1912), s. 3, and Sch. D., Pt. III, *post.*

principal articles of export, are the produce of the lands; it follows that the commerce, and consequently the wealth of the country, must increase in proportion to the extension of its agriculture

But it is not for commercial purposes alone that the encouragement of agriculture is essential to the welfare of these Provinces

The Hindus, who form the body of the people, are compelled, by the dictates of religion, to depend solely upon the produce of the lands for subsistence, and the generality of such of the lower orders of the Natives as are not of that persuasion are, from habit or necessity, in a similar predicament

The extensive failure or destruction of the crops that occasionally arises from drought or inundation is in consequence invariably followed by famine, the ravages of which are felt chiefly by the cultivators of the soil and the manufacturers, from whose labours the country derives both its subsistence and wealth

Experience having evinced that adequate supplies of grain are not obtainable from abroad in seasons of scarcity, the country must necessarily continue subject to these calamities until the proprietors and cultivators of the lands shall have the means of increasing the number of the reservoirs, embankments and other artificial works, by which, to a great degree, the untimely cessation of the periodical rains may be provided against, and the lands protected from inundation, and as a necessary consequence the stock of grain in the country at large shall always be sufficient to supply those occasional, but less extensive, deficiencies in the annual produce which may be expected to occur notwithstanding the adoption of the above precautions to obviate them

To effect these improvements in agriculture, which must necessarily be followed by the increase of every article of produce, has accordingly been one of the primary objects to which the attention of the British Administration has been directed in its arrangements for the internal government of these Provinces

As being the two fundamental measures essential to the attainment of it, the property in the soil has been declared to be vested in the landholders, and the revenue payable to Government from each estate has been fixed for ever

These measures have at once rendered it the interest of the proprietors to improve their estates, and given them the means of raising the funds necessary for that purpose

The property in the soil was never before formally declared to be vested in the landholders, nor were they allowed to transfer such rights as they did possess or raise money upon the credit of their tenures, without the previous sanction of Government

With respect to the public demand upon each estate, it was liable to annual or frequent variation at the discretion of Government

The amount of it was fixed upon an estimate formed by the public officers of the aggregate of the rents payable by the raiyats or tenants for each bigha

of land in cultivation, of which, after deducting the expenses of collection, ten-elevenths were usually considered as the right of the public and the remainder the share of the landholder.

Refusal to pay the sum required of him was followed by his removal from the management of his lands, and the public dues were either let in farm or collected by an officer of Government, and the above-mentioned share of the landholder, or such sum as special custom, or the orders of Government, might have fixed, was paid to him by the farmer or from the public treasury.

When the extension of cultivation was productive only of a heavier assessment, and even the possession of the property was uncertain, the hereditary landholder had little inducement to improve his estate, and moneyed men had no encouragement to embark their capital in the purchase or improvement of land, whilst not only the profit, but the security for the capital itself, was so precarious.

The same causes, therefore, which prevented the improvement of land depreciated its value.

Further measures, however, are essential to the attainment of the important object above stated.

All questions between Government and the landholders respecting the assessment and collection of the public revenue, and disputed claims between the latter and their raiyats or other persons concerned in the collection of their rents, have hitherto been cognizable in the Courts of Mál Adálat or Revenue Courts.

The Collectors of the Revenue preside in these Courts as Judges, and an appeal lies from their decision to the Board of Revenue, and from the decrees of that Board to the Governor General in Council in the Department of Revenue.

The proprietors can never consider the privileges which have been conferred upon them as secure, whilst the Revenue-officers are vested with these judicial powers.

Exclusive of the objections arising to these Courts from their irregular summary, and often *ex parte* proceedings, and from the Collectors being obliged to suspend the exercise of their judicial functions whenever they interfere with their financial duties, it is obvious that, if the Regulations for assessing and collecting the public revenue are infringed, the Revenue-officers themselves must be the aggressors, and that individuals who have been wronged by them in one capacity can never hope to obtain redress from them in another.

Their financial occupations equally disqualify them for administering the laws betwen the proprietors of land and their tenants.

Other security, therefore, must be given to landed property and to the rights attached to it before the desired improvements in agriculture can be expected to be effected.

Government must divest itself of the power of infringing, in its executive capacity, the rights and privileges which, as exercising the legislative authority, it has conferred on the landholders

The Revenue officers must be deprived of their judicial powers

All financial claims of the public, when disputed under the Regulations, must be subjected to the cognizance of Courts of Judicature, superintended by Judges who, from their official situations and the nature of their trusts, shall not only be wholly uninterested in the result of their decisions, but bound to decide impartially between the public and the proprietors of land, and also between the latter and their tenants

The Collectors of the Revenue must not only be divested of the power of deciding upon their own acts, but rendered amenable for them to the Courts of Judicature, and collect the public dues subject to a personal prosecution for every exaction exceeding the amount which they are authorized to demand on behalf of the public, and for every deviation from the Regulations prescribed for the collection of it

No power will then exist in the country by which the rights vested in the landholders by the Regulations can be infringed or the value of landed property affected

Land must, in consequence, become the most desirable of all property, and the industry of the people will be directed to those improvements in agriculture which are as essential to their own welfare as to the prosperity of the State

The following rules, being the rules passed for the guidance of the Collectors and the Board of Revenue, on the 8th June, 1787, and the 25th April, 1788, with alterations adapted to the principles above stated, have been accordingly enacted

2. [*Abolition of Courts of Mal Adalat*] *Rep by the Repealing Act, 1873 (12 of 1873)*

3. The collection of the revenue payable to Government from the estates in each zila is to be committed, as heretofore, to a civil covenanted servant of the Company, who is to be styled Collector of the Revenue [1] of the zila to which he may be appointed * * * * * [2] Collectors of Revenue

4. The Collectors [1] are to correspond with the Board of Revenue, [3] and to conform to all instructions with which they have been furnished by that Board and that are or may not be altered or revoked by this or any other Regulation * * * * [4], and also to all instructions which the Board of Revenue [3] may hereafter transmit to them Collectors subject to Board of Revenue

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[1] In Assam the Deputy Commissioner

[2] The second sentence of s 3 as to oaths, which was repealed by the Repealing Act 1873 (XII of 1873) is omitted

[illegible] and Assam Laws

[illegible] ion XLI 1793,

Seals of Collectors.

5. The Collectors [1] of the several zilas are to use a circular seal one inch and-a-half in diameter.

The seals of the Collectors [1] in Bengal and Orissa are to bear an inscription to the following effect, in the Bengal and Persian characters and languages and the seals of the Collectors in Bihar a similar inscription, in the Persian character and language, and the Hindustani language and Nagri character:

"The seal of the Collector [1] of the zila of ... "

Collectors to keep diary.

6. The Collectors [1] are to keep a regular diary of their official transactions, either in the English, Persian or Bengali language, recording and attesting them with their official signature at the time they may take place.

Duties of Collectors.

7. The duties prescribed in the following section are to be performed by the Collectors, [1] under the superintendence of the Board of Revenue [2].

Nature of duties.

8. *First.*—To collect the amount of the fixed revenue assessed upon the lands of the zamindars, independent talukdars or other actual proprietors of land, with or on behalf of whom a settlement has been or may be concluded.

Second.—To collect the stipulated annual revenue from the farmers of estates let in farm.

Third.—To levy the rents and revenue from estates held khas.

Fourth.—To make the future settlement of khas, or farmed estates, agreeably to the regulations and instructions which they may receive for that purpose.

Fifth.—To prosecute for the recovery of the dues of Government from lands, of whatever description, held exempt from the payment of revenue under illegal or invalid tenures.

Sixth.—To pay the pensions and allowances included in the public revenue and the pensions and compensations granted in consequence of the abolition of the sáir.

Seventh.—To execute the instructions which may be issued to them by the Court of Wards regarding disqualified landholders and their estates.

Eighth.—To superintend the division of landed property paying revenue to Government which may be ordered to be divided into two or more distinct estates.

Ninth.—To apportion the public revenue on lands ordered to be disposed of at public sale for the discharge of arrears of revenue.

Tenth.—To collect the tax on spirituous liquors and intoxicating drugs or articles.

Eleventh and Twelfth. [*To procure lands for native invalid soldiers ; to collect the police tax.*] *Rep. by the Repealing Act,* 1874 (16 *of* 1874).

Thirteenth.—To perform the above, and all other duties, according to the rules that have been or may be prescribed to them * * * [3].

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[1] In Assam, the Deputy Commissioners.

[2] In Assam, the Chief Commissioner—*see* the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (VII of 1912), s. 3, and Sch. D., Pt. III., *post.*

[3] The words and figures "by any Regulation published in the manner directed in Regulation XLI, 1739," which were repealed by the Repealing Act, 1876 (XII of 1876), are omitted.

Fourteenth —To transmit such annual, monthly or other accounts as they now furnish, or may be hereafter required to send by the Board of Revenue, [1] or any officer under that Board empowered to require such accounts

Fifteenth —To conform to all special orders that have been or may be issued to them by the Board of Revenue, [1] or by public officers empowered to issue such orders

9. * * [2] all Native officers under the Collector [3] are to act agreeably to his orders and such rules as he may prescribe Native officers to obey orders of Collector

They are not to perform any act of authority without his sanction or authority, under pain of being fined in a sum not exceeding six months' salary, or of being dismissed from their offices by the Collector,[3] the Board of Revenue [1] or the Governor General in Council, and also of being sued in the Court of Judicature for damages by any person who may consider himself aggrieved by such unauthorised act

10. The Collectors [3] are prohibited from employing directly or indirectly, their private servants, whether banyas or others, in the discharge of any part of their public duties it being required that, in all matters relating to the trust committed to them they act as the only empowered agents of Government Collectors not to employ private servants in public matters

This prohibition, however, is not meant to restrict them from occasionally employing their assistants * * [4] or their inferior public servants in the cases and in the manner in which they are authorised to make use of their agency

11. The khazanchi or Native cash-keeper in each zila is to be nominated by the Collector, [3] who is to take good and sufficient security from him for the faithful discharge of his trust, and for making good all deficiencies in the public money that may be committed to his charge Appointment and removal of Native cash keepers.

The Collector [3] is to transmit the names of the person whom he may nominate to the office of khazanchi, and of his surety, with a copy of the engagement executed by the latter, to the Board of Revenue [1], but the person so nominated shall not be considered as appointed until the Board of Revenue [1] shall have signified their approbation both of him and his surety

The Native cash-keeper so appointed shall not be removed but for misconduct, or other sufficient cause, proved to the satisfaction of the Board of Revenue [1], and he and the Collector [3] shall be held jointly and severally responsible to Government for the public money committed to their charge

12. [*Form to be observed in issuing public money*] *Rep by Act 25 of 1854*

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[1] In Assam the Chief Commissioner—*see* the Bengal, Bihar and Orissa and Assam Laws Act 1912 (VII of 1912) s 3 and Sch D Pt III *post*

[2] The words The dewan and which were repealed by the Repealing Act 1874 (XVI of 1874) are omitted

[3] In Assam Deputy Commissioner

[4] The words ' or dewans ' which were repealed by the Repealing Act 1874 (XVI of 1874), are omitted

Appointment and removal of Native servants.

13. [1] [*The appointment and dismission of all Native public servants on the establishments of the collectorships (the keepers of the Native records and the khazánchi excepted) are vested in the Collectors.*]

But they are to transmit to the Board of Revenue [2] regular notice of all appointments and removals, and are to employ none but such public and registered officers in matters in any respect relating to their official duty, and are not, under any plea or pretext, to confer on their public officers any private trust relating to their personal concerns.

In absence of Collector, senior Assistant to officiate.

14. In the event of the death or removal of a Collector [3], or of his absence from his station, the senior Assistant on the spot is to perform the duties of Collector * * [4] and the public officers of the Collectorship are accordingly to obey his orders.

Collectors and their officers prohibited being concerned extra-officially in revenues.

15. No Collector, [3] Assistant * * [5] to a Collector, or any Native in the employ of a Collector or of an Assistant, shall hold, directly or indirectly, any farm, or be concerned on their private account in the collection or payment of the revenue of any lands in the zila, either as farmer, surety or otherwise; and Native officers and private servants and dependents of Collectors and Assistants are prohibited from purchasing, directly or indirectly, any land that the Collector [3] may dispose of at public sale, under the penalty of forfeiting the property to Government, upon proof being made, to the satisfaction of the Governor General in Council, of the property having been so purchased.

Boná fide purchases of land at private sale by Collector's officers, etc.

16. The rules in the preceding section, however, are not to be considered to prohibit a * * [6] Native officer of a Collector [3], or any private servant of a Collector [3] or of an Assistant, from purchasing *boná fide* the proprietary right in lands situated in the zila, by private sale.

17. [*Prohibition against giving land to Europeans.*] *Rep. by the Repealing Act*, 1868 (8 *of* 1868).

Collectors and their Assistants prohibited from trading.

18. No Collector [3] [7] [or] Assistant * * [8] shall, directly or indirectly, carry on any trade, or be concerned in any commercial transaction whatever.

This prohibition, with regard to Collectors and their Assistants, is declared to extend to the purchase, directly or indirectly, of any goods or commodities in the British dominions in Bengal, for the purpose of remitting money to Europe.

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[1] The words printed in italics within square brackets were repealed by Ben. Reg. V of 1804, s. 3, but are printed here for convenience of reference.

[2] In Assam, the Chief Commissioner—*see* the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (VII of 1912), s. 3, and Sch. D., Pt. III., *post.*

[3] In Assam, the Deputy Commissioner.

[4] The words "and the dewan," which were repealed by the Repealing Act, 1874 (XVI of 1874), are omitted.

[5] The words "or dewan," which were repealed by the same Act, are omitted.

[6] The words "dewan or other," which were repealed by the same Act, are omitted.

[7] This word "or," in s. 18, was inserted by the Repealing and Amending Act, 1903 (I of 1903), Sch. II—*see post.*

[8] The words "or dewan," which were repealed by the Repealing Act, 1874 (XVI of 1874), are omitted.

19. [*Dewans prohibited from lending money to proprietors of land*] *Rep. by the Repealing Act,* 1873 (12 *of* 1873)

20. The Collectors [1] are to be careful that the accounts and records of their respective zilas are kept complete and duly preserved — Collectors to keep records

21, 22. [*Rules for rendering zilas compact, and prohibition against employing sepoys in collection of revenue*] *Rep by the Repealing Act,* 1874 (16 *of* 1874)

23. [*Restriction on advances of takkavi*] *Rep by the Land Improvement Act,* 1871 (26 *of* 1871)

24. The Collectors [1] are prohibited deputing any person into the zila of any other Collector, or exercising any authority beyond the limits of their respective zilas, excepting in cases in which they may be authorized so to do * * * [2] by special orders from a competent authority — Collectors not to exercise authority beyond limits of their zilas without orders

25. The Collectors [1] are to give monthly receipts for all payments of revenue into their treasuries, specifying the date or dates on which the money may be received * * * [3] — Rule with regard to receipts

The keepers of the Native records are to keep a register of these receipts regularly numbered

After having registered the receipts they are to attest on the face of them the date on which they may be registered

A copy of this register is to be transmitted monthly to the Board of Revenue, or as often as that Board [4] may require

A similar register of receipts is to be kept by all tahsildars, sazáwals or other Native officers entrusted with the immediate collection of the public revenue, and a copy of it is to be transmitted to the Collector [1] monthly or as often as he may require

26. The monthly or other receipts, for salaries, pensions, or allowances, of whatever kind, which may be paid by the Collectors, [1] are to be deposited amongst the public records of their respective zilas, and a register of them is to be kept by the keepers of the Native records * * * * [5] — Register of receipts for salaries, etc

27. [*Collectors resigning or removed not to quit station without sanction*] *Rep by the Repealing Act,* 1874 (16 *of* 1874)

28, 29. [*Collectors to be subordinate to a Board of Revenue, its constitution*] *Rep by the Bengal Board of Revenue Regulation,* 1822 (3 *of* 1822)

30-32. [*Power of Board over officers under them, and rules regarding deputations*] *Rep by the Repealing Act,* 1874 (16 *of* 1874)

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[1] In Assam, the Deputy Commissioner

[illegible]

[illegible] revenue which were repealed by the Repealing Act, 1874 (XVI of 1874) are omitted

In what cases Board may require personal attendance of Natives.

33. The Board of Revenue [1] are empowered to require the personal attendance of any proprietor or farmer of land, or any dependent talukdar, under farmer or raiyat, or any Native officer employed under a Collector [2] for the purpose of adjusting any settlement, or examining any accounts, or inquiring into any matter coming within their cognizance, provided the personal attendance of the party shall appear to them indispensably necessary.

In such cases the Board [1] are to direct the Collector [2] to serve such person with a written notice under his official seal and signature, specifying the business on account of which his attendance is judged necessary, and requiring him to attend the Board by such period as they may limit, under pain of being subject to such daily fine until he attends, or shows satisfactory cause for his non-attendance, as the Board may think proper to impose.

The Board [1] are empowered to fine such persons neglecting to appear by the time required, in such amount as may appear to them proper upon a consideration of the case and the situation and circumstances in life of the party, and the amount of the fine shall be levied by the Collector, [2] by the process prescribed for the recovery of arrears of revenue.

But the Board of Revenue [1] are prohibited requiring the personal attendance of any person in cases in which the business can be transacted by a vakil.

34, 35. [*Execution of Board's orders, and powers of Members.*] *Rep. by the Bengal Board of Revenue Regulation,* 1822 (3 *of* 1822.)

Powers of Board as to settlement of lands held khas.

36. The Board of Revenue [1] are empowered to issue orders to their subordinate officers for making the settlement of lands that are or may be khas in conformity to the Regulations, and any special instructions which may be prescribed to them by the [3] [Governor General in Council].

Security for payment of revenue.

37. In all cases of a settlement being made with or on behalf of zamindars, independent talukdars or other actual proprietors of land, their lands are to be deemed sufficient security for the payment of the revenue.

But, where lands are let in farm, a málzamin, or surety for the punctual discharge of the revenue, is to be invariably required.

Remissions.

38. No remissions upon the settlement of a preceding year, nor any remissions whatsoever, are to be granted by the Board without the sanction of the [3] [Governor General in Council].

Settlements to be made by Collectors.

39. It is to be observed as a general principle that the settlement of lands that are or may be khas is to be made by the Collectors [2] under the regulations and the instructions of the Board of Revenue. [1]

But if the Board should deem a special deputation of one of their members, or of any other person, necessary to form the settlement of any such lands, they are to propose the measure to the [3] [Governor General in Council], with their reasons for recommending it.

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[1] In Assam, the Chief Commissioner—*see* the Bengal, Bihar and Orissa and Assam Law Act, 1912 (VII of 1912), s. 3, and Sch. D., Pt. III, *post.*

[2] In Assam, the Deputy Commissioner.

[3] The words "Governor General in Council" in ss. 36, 38 and 39 are to be read as if the words "Local Government" were substituted therefor—*see* the Repealing and Amending Act 1903 (I of 1903), Sch. II, *post.*

40. Upon a settlement being concluded with any proprietor or farmer, conformably to the Regulations, the Board of Revenue [1] are to issue the usual bandobasti parwana to the proprietor or farmer, without applying to the [2] [Governor General in Council] for [3] [his] sanction for that purpose

Procedure on settlement being concluded.

41. The collection of the revenue is committed to the Collectors [4], but the Board of Revenue [1] are to see that the revenues are realized by the stipulated periods, or that solid and satisfactory reasons are assigned by the Collectors [4] for any delay or deficiency

Collection of revenue

The power of coercion over the proprietors and farmers of land is also vested in the Collectors, [4] as prescribed in Regulation 14, 1793 [5]

42. The Board [1] are authorized to grant temporary suspensions of the demands of revenue whenever it may appear to them indispensably necessary, reporting the sum suspended, without delay to the [2] [Governor General in Council,] with their reasons for the measure But they are not to grant any suspensions beyond the current year

Temporary suspensions

43. No remissions of balances are to be granted without the special authority of the [2] [Governor General in Council]

Remissions of balances

44. [*Accounts to be furnished to Governor General*] *Rep by the Land Improvement Act, 1871 (26 of 1871)*

45. The Board of Revenue [1] are to furnish the [2] [Governor General in Council] with such annual, monthly or other accounts as they now are or may be required to submit to[6] [him]

Duty of Board to furnish accounts, etc.

They are likewise to observe all special orders which they have received or may receive from the [2] [Governor General in Council]

46, 47. [*Prohibitions to be observed by Board, and acknowledgment for places restored to foreign powers*] *Rep by the Repealing Act*, 1874 (16 *of* 1874)

48. [*Separate accounts of expenses for reducing rebellious zamindars and others*] *Rep by the Repealing Act*, 1873 (12 *of* 1873)

49-70. [*Rules for conducting the business of Board, and powers of President*] *Rep by the Bengal Board of Revenue Regulation, 1822* (*3 of 1822*)

[illegible] and Orissa and Assam Laws

[illegible] and 45 are to be read as if the [illegible] Repealing and Amending Act,

[illegible] was substituted therefor—*see*

[illegible] 1874 (XVI of 1874), but

[illegible] substituted therefor—*see*

BENGAL REGULATION 8 OF 1793.

(THE BENGAL DECENNIAL SETTLEMENT REGULATION, 1793).

CONTENTS.

SECTION.

SECTION

BENGAL REGULATION 8 OF 1793

(THE BENGAL DECENNIAL SETTLEMENT REGULATION, 1793)[1]

[1st *May* 1793]

A Regulation for re enacting, with modifications and amendments, the rules for the Decennial Settlement of the public revenue payable from the lands of the zamindars, independent talukdars and other actual proprietors of land in Bengal, Bihar and Orissa, passed for those Provinces respectively on the 18th September, 1789 , the 25th November, 1789 , and the 10th February, 1790, and subsequent dates

1-3. [*Re enactment of code of rules passed on 23rd November* 1791 *term of settlement , to be perpetual with approbation of Court of Directors*] *Rep by the Repealing Act, 1874 (16 of 1874)*

4. The settlement under certain restrictions and exceptions hereafter specified shall be concluded with the actual proprietors of the soil of whatever denomination, whether zamindars, talukdars or chaudris Settlement with whom to be concluded

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[1]SHORT TITLE —This short title was given by the Amending Act 1897 (V of 1897) Sch III —*see post*

LOCAL EXTENT —This Regulation has been declared by notification under the Scheduled Districts Act 1874 (XIV of 1874) s 3 to be in force in the Scheduled Districts of Goálpára (excluding the Eastern Duárs) and Sylhet—*see* Vol II Appendix I Table B

5-12. [*What talukdars to be actual proprietors; payment of rent through actual proprietors; what talukdars to be leaseholders; jangal-buri talukdars; proprietors of málguzári aima lands; rules for guidance of Collectors, right of dissatisfied parties to sue in Court of Diwáni Adálat*]. *Rep. by the Repealing Act, 1874 (16 of 1874).*

Payment of revenue by talukdars ordered to be separated.

13. Talukdars ordered to be separated are not to be permitted to pay the revenue assessed upon their lands through the zamindars or other actual proprietors of estates as heretofore.

Separated talukdars where to pay revenue.

14. Talukdars who, in consequence of the rules in sections 5 and 9,[1] may be separated from the zamindars or other actual proprietors of estates, through whom they heretofore paid their revenues, are to pay their revenue in future immediately into the Collector's[2] treasury; except in districts where, from the number of taluks or other cause, this mode would beattended with considerable inconvenience, in which case tahsildars, or Native Collectors, are to be appointed to receive the revenue of the taluks in such districts.

Tahsildars.

15. Zamindars or other actual proprietors of land, from whose zamindaries or estates, taluks may be separated, shall not be appointed tahsildars to receive the revenue of the taluks so separated, but the office of tahsildar shall, in every instance, be given to some other person of character and responsibility, and the whole expense of it is to be defrayed by Government.

16-18. [*Rules respecting mukarrari leases and mukarraridars.*] *Rep. by the Repealing Act, 1876 (12 of 1876).*

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[1] Sections 5 and 9 were repealed by the Repealing Act, 1874 (XVI of 1874), but this reference is saved by the proviso to that Act. The sections are as follows:—

"5. *First.*—The talukdars to be considered the actual proprietors of the lands composing the taluks are the following:—

Second.—Talukdars who purchased their lands by private or at public sale, or obtained them by gift from the zamindar or other actual proprietor of land to whom they now pay the revenue assessed upon their taluks, or from his ancestors, subject to the payment of the established dues of Government, and who received deeds of sale, or gift of such land, from the zamindar, or sanads from the Khalsa, making over to them his proprietary rights therein.

Third.—Talukdars, whose taluks were formed before the zamindar or other actual proprietor of land to whom they now pay their revenue, or his ancestors, succeeded to the zamindari.

Fourth.—Talukdars, the lands comprised in whose taluks were never the property of the zamindar or other actual proprietor of the soil to whom they now pay their revenue, or his ancestors.

Fifth.—Talukdars who have succeeded to taluks of the nature of those described in the preceding clauses, by right of purchase, gift or inheritance, from the former proprietor of such taluks.

"9. The rules in section 5, respecting taluks, have also been extended to aima lands liable to the payment of a fixed quit revenue, denominated malguzari aimas; and, agreeably to the distinctions laid down in that section, it has been ordered, that such malguzari aima tenures as are held under grants of the Muhammadan government previous to the Company's accession to the Diwáni, or which have been since granted by proprietors of estates for a consideration received by them, are to be separated from the proprietors to whom their revenue is now paid, as coming within the spirit of the rules for the separation of talukdars who are proprietors of the lands composing their taluks. But malguzari aima tenures which may appear to have been *boná fide* granted for the purpose of bringing waste-lands into cultivation shall continue included in the estates to which they are now annexed, as coming within the rules in section 8, respecting jangal-buri taluks."

[2] In Assam, the Deputy Commissioner.

Istimrardars to be considered as patta talukdars

19. Istimrárdars, however, who have not got possession of their lands to the exclusion, or without the consent, of the actual proprietors, * * * [1] but hold them of the proprietors on patta or lease, are to considered as a species of patta talukdars, and the settlement is to be made with them as hereafter specified

Exceptions to general order for conclusion of decennial settlement with actual proprietors of soil

20. The exceptions to the general order for the conclusion of the decennial settlement with the actual proprietors of the soil, contained in section 4, include the following descriptions or persons, females (excepting those whom the[2] [Governor General in Council] may judge competent to the management of their own estates), minors, idiots, lunatics or others rendered incapable of managing their lands by natural defects or infirmities of whatever nature * * * * [3] provided, however, with regard to the whole of these descriptions, that they are not partners in the zamindaris, independent taluks or other estates held by them, with others of a different description, in which case themselves or guardians are allowed, with their partners to engage for the settlement of their lands, and elect a joint manager under the restrictions hereafter mentioned

Management of lands of disqualified proprietors

21. The lands of disqualified proprietors, coming within the above descriptions, are to be managed for the benefit of the proprietors by persons appointed to the trust by [4] [Government] * * * * * [5]

Exceptions as to proprietors of land in balance to Government and unable to pay arrears

22. A further exception has been made to proprietors in balance to Government, and unable to pay the arrears due from them, in which instances no settlement is to be concluded with the defaulting proprietors, but their lands are to be let in firm, or held khas, for a period of three years, at the discretion of the Collector [6]

23-25. [*Settlement of undivided estates possessed by several proprietors, appointment of manager, when guardians of proprietors may vote in choice of manager nomination of manager by Collector*] *Rep by Ben Reg 17 of 1805*

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[1] The words and figures "as the Mukarrandars mentioned in section 18 are supposed to have done," which were repealed by the Repealing and Amending Act, 1903 (I of 1903), are omitted

[2] The words "Governor General in Council," in section 20, are to be read as if the words 'Local Government" were substituted therefor —*see* the Repealing and Amending Act, 1903 (I of 1903), Sch II, *post*

[3] The words "and persons whom the Governor General in Council may deem disqualified on account of their contumacy or notorious profligacy of character,' which were repealed by Ben Reg VII of 1796, s 2, are omitted

[4] The word Government" in section 21 is to be read as if the words the Local Government" were substituted therefor—*see* the Repealing and Amending Act, 1903 (I of 1903) Sch II, *post*

[5] [illegible] are omitted

[6] In Assam the Deputy Commissioner

Determination of agreement to jama of undivided estates.

26. The determination of the majority of the proprietors present under the restrictions specified in section 23, [1] is also to be binding on the remainder, in agreeing or disagreeing to the jama proposed for undivided estates. The sharers, however, if dissatisfied, may obtain a division of their lands and a proportionate allotment of the revenue assessed thereon, but at their own expense.

Settlement of land standing in joint names of several proprietors, or of one for many.

27. When a portion of land stands in the joint names of several proprietors, or of one for many, but each proprietor has his separate share in his own possession and management, or in that of an agent for him, the settlement is to be made for each share with the person in possession, and his land is to be held exclusively responsible for the revenue assessed upon it.

28-29. [*Settlement of mortgaged lands; settlement when proprietors are not forthcoming.*] *Rep. by the Repealing Act, 1876 (12 of 1876).*

Settlement of disputed estates.

30. Where the property in lands is disputed, the settlement is to be made with the proprietor in possession, under an express declaration that he is nevertheless liable to the claims upon the estate, which is to be transferable to any other person to whom the property may be subsequently adjudged.

If no claimant has been previously in possession.

31. If a case should occur in which none of the claimants shall have been previously in possession, they are to be allowed to appoint a manager until their claims shall have been determined in the Diwáni Adálat of the zila: but, if they should not agree to a manager, the lands are to be held khas, and the surplus produce, after discharging the revenue, is to be kept in deposit, until the right of property shall be adjudged.

Settlement in cases of disputes as to boundaries.

32. Where disputes exist concerning the boundaries of land, they are to be left to be adjusted in the Diwáni Adálat, and the settlement is to be made in the meantime for the lands in possession of the disputing parties respectively.

33. [*Rules for fixing assessment.*] *Rep. by the Repealing and Amending Act*, 1903 (1 *of* 1903.)

Allowances of kázis and kánungos, and public pensions, to be added to the jama.

34. The allowances of the kázis and kánungos heretofore paid by the landholders, as well as any public pensions hitherto paid through the landholders, are to be added to the amount of the jama, and in future paid by the Collectors [2] of the revenue of the several zilas, on the part of Government, under the rules and restrictions laid down for their guidance, with regard to such payments, in the Resolutions passed by the Governor General in Council

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[1] Section 23 was repealed by Ben. Reg. XVII of 1805. It ran as follows :—

"23 Where more proprietors than one possess an undivided estate, and the whole of them be not within the description of disqualified landholders specified in section 20, the settlement is to be made with them jointly, and they are to be required to elect a sarbaráhkar or manager, who shall have the exclusive management of their lands during the continuance of his appointment. The determination of the majority of the proprietors or of the majority of those present in the event of the absence of any is to be binding on the remainder in the choice of a manager; and, when the votes of the proprietors are equal, the election of the manager is to be determined by the greater interest of the proprietors in the property. If in any case the interest also be equal, the manager is to be appointed by the Board of Revenue."

[2] In Assam, the Deputy Commissioner.

on the 10th June, 1791, and re enacted, with modifications, by Regulation 24 1793 [1]

35. The assessment is to be fixed exclusive and independent of all duties, taxes and other collections, known under the general denomination of sair, the collections made in the ganjes, haths and bázárs situated within the limits of the town of Calcutta excepted, and excepting also the collections confirmed to the proprietors and holders of ganjes, bazárs and haths by the Resolutions passed by the Governor General in Council on the 11th of June, 1790 — Assessment to be fixed, *exclusive of* sáir, with exceptions

* * * * * [2]

36. The assessment is also to be fixed exclusive and independent of all existing lákhiraj lands, whether exempted from the khiraj (or public revenue) with or without due authority — Also exclusive of lakhiraj lands

37. The above exemption, however, is not meant to include the malikána lands in Bihar, or the nankar, khamar, nij jot and other private lands of the zamindars and independent talukdars or other actual proprietors of land in Bengal and Midnapur regarding which the following rules have been prescribed — But not of malikana lands in Bihar or other lands in Bengal and Midnapur

38 [*Malikána lands in Bihar to be re annexed Omitted, as being inapplicable to Assam*]

39. The nankar, khamar, nijjot, and other private lands appropriated by the zamindars, independent talukdars and other actual proprietors of land in Bengal and Orissa to the subsistence of themselves and families shall be also annexed to the malguzári lands, and the ten years' jama fixed upon the whole under the following modification, that such proprietors as may decline to engage for their lands be allowed the option of retaining possession of their private lands above specified, upon the terms on which they have hitherto possessed them, provided they shall prove, to the satisfaction of the Board of Revenue [3] that they held them under a similar tenure previous to the 12th August, 1765, the date of the grant of the Diwani to the Company, and have hitherto been permitted to keep possession of them, whenever their zamindaris or estates have been held khas or let in farm, but not otherwise — Nankár, khamar, nij jot and other private lands of proprietors in Bengal and Orissa to be annexed to the malguzar lands

In the event of such proof, and of their availing themselves of the option above given to retain possession of their private lands, a deduction, adequate to the neat produce of such lands, is to be made from the amount of the allowance fixed for excluded proprietors by section 44 [4]

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[1] Ben Reg XXIV of 1793 was repealed by the Pensions Act, 1871 (XXIII of 1871)

[2] The second sentence of s 35, which was repealed by the Repealing Act, 1874 (XVI of 1874 ...

charges But of this allowance, however, a provision is to be made for such persons belonging to the families of the proprietors as may be entitled thereto'

Consolidation of málguzári and private lands also in certain taluks.

40. The above consolidation of the málguzári and private lands is also to be made in the taluks continued under the proprietors on whom they have hitherto been dependent; not, however, with a view of increasing the rents of the talukdars, but in order to make the whole of the lands composing their taluks answerable for their proportion of the public assessment allotted thereon.

Chákarán annexed to málguzári lands.

41. The chákarán lands, or lands held by public officers and private servants in lieu of wages, are also not meant to be included in the exception contained in section 36. The whole of these lands in each Province are to be annexed to the málguzári lands and declared responsible for the public revenue assessed on the zamindaris, independent taluks or other estates in which they are included, in connection with all other málguzári lands therein.

42. [*Engagements for the jama to be for Sicca rupees.*] *Rep. by the Repealing Act, 1874 (16 of 1874).*

Procedure in case of landholders declining to engage for jama proposed to them.

43. In the event of any proprietor declining to engage for the settlement of his lands at the jama proposed to him, the Collector[1] is to communicate the objections offered, with his opinion respecting them, to the Board of Revenue.[2]

That Board [2] is to determine the proper assessment after making such further inquiries as they may think necessary, and the objecting proprietor is to be required to engage for such assessment without further delay; and in the event of his refusal, which is to be given in writing, his lands are to be let in farm or held khas, as the Board of Revenue [2] may in each instance think most expedient.

44-47. [*Proprietors refusing to engage for the jama to receive málikána; rules respecting payment of málikána and enforcement of payment from farmers*]. *Rep. by the Repealing Act, 1874 (16 of 1874).*

48. [*Settlement by proprietors with talukdars under them.*] *Rep. by the Repealing Act, 1876 (12 of 1876).*

Certain istimrárdars not liable to increase of rent.

49. It is to be understood, however, that istimrárdars (mukarraridars) of the nature of those described in section 18, [3] who have held their land at a fixed rent for more than twelve years, are not liable to be assessed with any increase, either by the officers of Government or by the zamindar or other actual proprietor of land, should he engage for his own lands.

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[1] In Assam, the Deputy Commissioner.

[2] In Assam, the Chief Commissioner—*see* the Bengal, Bihar and Orissa and Assam Laws Act, 1912, (VII of 1912), s. 3 and Sch. D., Pt. III, *post.*

[3] S. 18 was repealed by the Repealing Act, 1876 (XII of 1876), but this reference is saved by the proviso to that Act. The section ran as follows:—

"18. Mukarraridars holding lands of which they are not the actual proprietors and whose Mukarrari grants have been obtained since the Company's accession to the Diwáni, and never received the sanction of the Supreme Government, are to be dispossessed, and the settlement is to be made with the actual proprietors of the soil under this Regulation.

In cases, however, where such mukarraridars have been in possession of their mukarraris for a term exceeding twelve years, they are to receive during their lives (subject to the pleasure of the Honourable Court of Directors) the difference between the jama at which they held the lands and that which may be now agreed to by the actual proprietors, added to the neat produce of the authorised sáir, resumed or abolished."

With regard to such istimrardárs also as have not held their lands at a fixed rent for so long a period, if the zamindar or other actual proprietor of land has bound himself by the deed which he may have executed not to lay any increase upon them, he shall not be allowed to infringe the conditions of the deed for his own benefit, but must confine his demands to the rent he may have voluntarily agreed to receive

50. This last restriction imposed on the zamindar or other actual proprietor of land, in section 49, is not to be considered to preclude the officer of Government or farmer, in the event of the zamindari being held khas or let in farm, from assessing such istimrárdars according to the general rate of the district

Exception to above

51. The following rules are prescribed to prevent undue exaction from the dependent talukdars —

Rules to prevent undue exactions from talukdars

First —No zamindar or other actual proprietor of land shall demand an increase[1] from the talukdars dependent on him, although he should himself be subject to the payment of an increase of jama to Government, except upon proof that he is entitled so to do either by the special custom of the district or by the conditions under which the talukdar holds his tenure, or that the talukdar by receiving abatements from his jama, has subjected himself to the payment of the increase demanded and that the lands are capable of affording it

Second —If, in any instance it be proved that a zamindar or other actual proprietor of land exacts more from a talukdar than he has a right to, the Court shall adjudge him to pay a penalty of double the amount of such exaction, with all costs of suit, to the party injured

52. The zamindar or other actual proprietor of land is to let the remaining lands of his zamindari or estate, under the prescribed restrictions, in whatever manner he may think proper, but every engagement contracted with under farmers shall be specific as to the amount and conditions of it, and all sums received by any actual proprietor of land or any farmer of land, of whatever description, over and above what is specified in the engagements of the persons paying the same, shall be considered as extorted, and be repaid with a penalty of double the amount The restrictions prescribed and referred to in this section are the following

Power of actual proprietors to let remaining lands as they think proper

53. No person contracting with a zamindar, independent talukdar or other actual proprietor or employed by him in the management of the collections shall be authorised to take charge of the lands or collections without an ámilnama, or written commission, signed by such zamindar, independent talukdar or other actual proprietor

Lands so lot not to be taken charge of without ámilnama

54. The impositions upon the raiyats, under the denomination of abwáb, mathat and other appellations, from their number and uncertainty having become intricate to adjust, and a source of oppression to the raiyats, all pro-

Process to prevent imposition on raiyats under denomination of abwáb, mathat, etc

[1] For a restriction on the enhancement of rent in the districts of Goalpára and Sylhet see the Landlord and Tenant Procedure Act, 1869 (Ben Act VIII of 1869) s 16 printed *post*

prietors of land and dependent talukdars shall revise the same, in concert with the raiyats, and consolidate the whole with the assal into one specific sum.

In large zamindaris or estates the proprietors are to commence this simplification of the rents of their raiyats in the parganas where the impositions are most numerous, and to proceed in it gradually till completed; but so that it be effected for the whole of their lands by the end of the Bengal year 1198[1] in the Bengal districts, and of the Fasli and Wilayati year 1198 in the Bihar and Orissa Districts, these being the periods fixed for the delivery of pattas, as hereafter specified.

Proprietors and farmers of land prohibited imposing new abwáb or mathat on raiyats.

55. No actual proprietor of land or dependent talukdar or farmer of land, of whatever description, shall impose any new abwáb or mathat upon the raiyats under any pretence whatever.

Every exaction of this nature shall be punished by a penalty equal to three times the amount imposed; and if, at any future period, it be discovered that new abwáb or mathat have been imposed, the person imposing the same shall be liable to this penalty for the entire period of such impositions.

56, 57. [*Variations of pattas according to articles of produce; what pattas delivered to raiyats shall contain.*] *Rep. by the Repealing Act. 1876 (12 of 1876).*

58. [*Forms of pattas.*] *Rep. by the Bengal Land Revenue Sales Regulation, 1812 (5 of 1812), s. 3.*

59, 60. [*Right of raiyats to demand pattas; existing leases to remain in force, until period of expiration; restriction on cancelling pattas of khudkast raiyats.*] *Rep. by the Repealing Act, 1876 (12 of 1876).*

61. [*Time allowed for delivery of pattas to raiyats.*] *Rep. by the Repealing Act, 1874 (16 of 1874).*

62. [*Rules regarding patwáries.*] *Rep. by the Bengal Patwáries Regulation, 1817 (12 of 1817)*, as extended by the Bengal *Kánungos and Patwáries Regulation, 1819 (1 of 1819), s. 4(2).*

63. [*Proprietors to give receipts for rent or revenue received, and not to demand rent of absconded raiyats from those who remain.*] *Rep. by the Repealing Act, 1874 (16 of 1874).*

Adjustment of mufassal kistbandis.

64. The proprietors of land, dependent talukdars and farmers of land, of every description are to adjust the instalments of the rents receivable by them from their under-renters and raiyats, according to the time of reaping and selling the produce, and they shall be liable to be sued for damages for not conforming to this rule.

Bar to engagements contrary to Regulation.

[2] **65.** No proprietor of land or dependent talukdar shall contract any engagement with any under-farmer, or authorize any act, contrary to the letter and meaning of this Regulation.

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[1] *i.e.*, the 1st April, 1792.

[2] As regards s. 65, it should be noted that the portion of the Bengal Land-revenue Sales Regulation, 1812 (V of 1812), s. 3, which was repealed by the Repealing Act, 1874 (XVI of 1874), rescinded "such parts of Reg. VIII of 1793 . . . . as declare that engagements for rent contracted in any other mode than that prescribed by the Regulation . . . . . . shall be deemed to be invalid."

66. ?
depende

ment, and all persons farming lands of the above-mentioned descriptions of landholders and farmers of land, and their respective officers, agents, servants, dependents and raiyats, are prohibited from taking cognizance of, or interfering in, matters or causes coming within the jurisdiction of the Courts of Civil Judicature * * * *[1] or the Magistrates, under pain of being liable to the payment of such fine to Government, and damages to the party injured, as the Court of Judicature in which they may be prosecuted for the act may deem it proper to impose and award

matters coming within cognizance of Courts or Magistrates

67. *First to Fourth* [*Restrictions in the Kabuliyats to be in force, proprietors entitled to sell or mortgage their estates from date of settlement, rules regarding recovery of arrears from raiyats, withdrawal of police jurisdiction from proprietors*] *Rep by the Repealing Act, 1876* (*12 of 1876*)

Fifth—In the original rules above mentioned it was also directed that, if in any instance the Regulations should appear inapplicable to the circumstances of any particular district, the Collector [2] should attend to the spirit of them, and carry them into execution in such mode as circumstances might allow, reporting any alterations or modifications which he might deem necessary

Collector to attend to spirit of Regulation where not applicable to particular districts

This rule is to be considered still in force in forming any settlements which remain to be concluded, but it is not to be construed to empower the Collector [2] to exercise any judicial authority

Sixth—[*Settlement under regulations in force prior to the original rules for the decennial settlement*] *Rep by the Repealing Act, 1876* (*12 of 1876*)

68-101. [*Special orders for Bengal, Bihar, Midnapur and Salt Districts*] *Rep by the Repealing Act*, 1874 (16 *of* 1874)

BENGAL REGULATION 11 OF 1793

(THE BENGAL INHERITANCE REGULATION, 1793)[3]

[1st *May*, 1793]

A Regulation for removing certain restrictions to the operation of the Hindu and Muhammadan laws with regard to the in-

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[1] The words "or the Courts of Circuit," which were repealed by the Repealing and Amending Act, 1903 (I of 1903) are omitted

[2] In Assam the Deputy Commissioner

[3] SHORT TITLE—This short title was given by the Amending Act, 1897 (V of 1897), Sch III—*see post*

heritance of landed property subject to the payment of revenue to Government.

Preamble.

1. A custom, originating in considerations of financial convenience, was established in these Provinces under the Native Administrations, according to which some of the most extensive zamindaris are not liable to division.

Upon the death of the proprietor of one of these states it devolves entire to the eldest son or next heir of the deceased, to the exclusion of all other sons or relations.

This custom is repugnant both to the Hindu and Muhammadan laws, which annexed to primogeniture no exclusive right of succession to landed property, and consequently subversive of the rights of those individuals who would be entitled to a share of the estates in question were the established laws of inheritance allowed to operate with regard to them as well as all other estates.

It likewise tends to prevent the general improvement of the country, from the proprietors of these large estates not having the means, or being unable to bestow the attention, requisite for bringing into cultivation the extensive tracts of waste-land comprised in them.

For the above reasons, and as the limitation of the public demand upon the estates of individuals as they now exist, and the rules prescribed for apportioning the amount of it on the several shares of any estates which may be divided, obviate the objections and inconveniences that might have arisen from such divisions when the public demand was liable to annual or frequent variation, the Governor General in Council has enacted the following rules:

Descent of landed property after 1st July, 1794.

2. * *[1] if any zamindar, independent talukdar or other actual proprietor of land shall die without a will, or without having declared by a writing, or verbally, to whom and in what manner his or her landed property is to devolve after his or her demise, and shall leave two or more heirs, who by the Muhammadan or Hindu law (according as the parties may be of the former or latter persuasion) may be respectively entitled to succeed to a portion of the landed property of the deceased, such persons shall succeed to the shares to which they may be so entitled.

Estate how held on death of actual proprietor.

3. If any zamindar, independent talukdar or other actual proprietor of land shall die * *[2] without a will, or without having declared by a writing or verbally, to whom and in what manner his or her landed property is to devolve after his or her demise, and shall leave two or more heirs, who by the Muhammadan or Hindu law (according as the parties may be of the former or latter persuasion) shall be respectively entitled to succeed to a portion of the

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[1] Words and figures as to dates, which were repealed by the Repealing Act, 1874 (XVI of 1874), are omitted.

[2] The words and figures "subsequent to the period specified in section 2," which were repealed by the Repealing Act, 1874 (XVI of 1874), are omitted.

landed property of the deceased, under the rule contained in [1][section 2] such persons shall be at liberty, if they shall prefer so doing, to hold the property as a joint undivided estates

If one or more, or all of the sharers shall be desirous of having separate possession of their respective shares a division of the estate shall be made in the manner directed in [2][the Estates Partition Act, 1876] and such sharer or sharers shall have the separate possession of such share or shares accordingly

If there shall be three or more sharers, and any two or more of them shall be desirous of holding their shares as a joint undivided estate, they shall be permitted to keep their shares united accordingly

4. * * [3] if any one or more of such sharers shall apply to have the separate possession of his or their share or shares, the proportion of the public jama charged upon the whole estate which is to be assessed upon such share or shares is to be adjusted according to the rules prescribed in section 10, Regulation 1, 1793 [4]

Shares held separate how assessed

If the estate is held khas or let in farm, the provisions contained in section 11, Regulation, 1, 1793 [4] regarding estates so circumstanced which may be divided, will be applicable to it

5 Nothing contained in this Regulation is to be construed to * * [5] prohibit any actual proprietor of land bequeathing or transforming by will, or by a declaration in writing, or verbally, either prior or subsequent to the 1st July, 1794, his or her landed estate entire to his or her eldest son or next heir, or other son or heir, in exclusion of all other sons or heirs, or to any person or persons, or to two or more of his or her heirs, in exclusion of all other persons or heirs, in the proportions, and to be held in the manner, which such proprietor may think proper

Saving of bequests and transfers

Provided that the bequest or transfer be not repugnant to any Regulations that have been or may be passed by the Governor General in Council, nor contrary to the Hindu or Muhammadan law, and that the bequest or transfer, whether made by a will or other writing, or verbally, be authenticated by, or made before, such witnesses, and in such manner, as those Laws and Regulations respectively do or may require

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[1] ... that section

[2] ... the word and ... 1) Sch II—see ... by the Estates ... r Ben Act V of 1897 has been extended to Assam or any part thereof

[3] ... which was repealed by the Repealing Act, 1874 (XV ...

[4] ... 1793 It is printed *ante* p 2

[5] ... the Repealing Act 1874 (XVI of 1874) wit... have been omitted

BENGAL REGULATION 38 OF 1793.

[THE INDIAN CIVIL SERVICE (BENGAL) LOANS PROHIBITION REGULATION, 1793.][1]

[*1st May, 1793.*]

A Regulation for re-enacting, with modifications, such part of the Rule passed on the 27th June, 1787, as prohibits covenanted Civil Servants of the Company employed in the administration of justice or the collection of the public revenue lending money to zamindars, independent talukdars or other actual proprietors of land, or dependent talukdars or farmers of land holding farms immediately of Government, or the under-farmers or raiyats of the several descriptions of proprietors and farmers of land above-mentioned, or their respective sureties * * * *[2].

Preamble.

1. At an early period after the establishment of the British Government in this country the servants of the Company employed in the administration of justice and the collection of revenue were prohibited from lending money to the landholders and farmers, and others concerned in the collection or payment of the revenue, in order to guard against the abuses that the powers with which they were invested would have enabled them to practise had they been permitted to engage in such transactions with individuals subject to their official control and authority.

This rule was incorporated with the Judicial Regulations passed on the 5th July, 1781, and has since continued in force.

* * * * * *[3]

The rules above-mentioned are hereby re-enacted with modifications.

Covenanted servants prohibited lending money to proprietors, etc., of land.

2. The Judges and Magistrates of the Zila * *[4] Courts * * *[5] and their Assistants, or other officers, being covenanted servants of the Company, and the Collectors[6] of the revenue and their Assistants, are prohibited lending money, directly or indirectly, to any proprietor or farmer of land, or dependent talukdar, or under-farmer or raiyat, or their sureties; and

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[1] SHORT TITLE.—This short title was given by the Amending Act, 1897 (V of 1897), Sch. III—*see post.*

LOCAL EXTENT.—Ss. 1 and 2 of this Regulation have been declared, by notification under the Scheduled Districts Act, 1874 (XIV of 1874), section 3, to be in force in Assam (except the North Lushai Hills)—*see* Vol. II, Appendix I, Table B.

The Regulation is not in force in the Lushai Hills; *see* notification under Regulation II of 1880, Vol. II, App. II, Table B.

[2] The remainder of the title, which was repealed by the Repealing and Amending Act, 1891 (XII of 1891), is omitted.

[3] Portion of s. 1 which was repealed by the Repealing and Amending Act, 1891 (XII of 1891), is omitted.

[4] The words "and City" which were repealed by the Repealing Act, 1874 (XVI of 1874), are omitted.

[5] The words "the Judges of the Provincial Courts of Appeal and the Courts of Circuit and the registers to their respective Courts," which were repealed by the same Act, are omitted.

[6] In Assam, the Deputy Commissioner.

all such loans as * * *[1] may be hereafter made are declared not recoverable in any Court of Judicature

3-6. [*Europeans possessing land liable to be dispossessed, European mortgages not to have possession of land, land held by Europeans to be measured; annual statements of land held by Europeans to be sent to Board of Revenue*] *Rep by the Repealing Act, 1868 (8 of 1868)*

BENGAL REGULATION 5 OF 1799

(THE BENGAL WILLS AND INTESTACY REGULATION, 1799)[2]

[*3rd May, 1799*]

A Regulation to limit the interference of the Zila * *[3] Courts of Diwáni Adálat in the execution of wills and administration to the estates of persons dying intestate

1. Doubts having been entertained to what extent, and in what manner, the Judges of the Zila * *[4] Courts of Diwáni Adálat in the provinces of Bengal, Bihar, Orissa and Benares, are authorised to interfere in cases wherein the inhabitants of the above provinces may have left wills at their decease, and appointed executors to carry the same into effect, or may have died intestate leaving an estate real or personal, with a view to remove all doubts on the authority of the Zila * *[4] Courts in such cases, and to apply thereto, as far as possible, the principle * *[5] that in suits regarding succession and inheritance the Muhammadan laws with respect to Muhammadans, and the Hindu laws with regard to Hindus, be the general rules for the guidance of the Judges, the Vice-President in Council has passed the following Regulation, to be considered in force from the period of its promulgation in the above Provinces respectively Preamble

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[1] The words "have been made in opposition to the repeated prohibitions of Government or which," which were repealed by the Repealing and Amending Act 1903 (I of 1903), are omitted

[2] SHORT TITLE —This short title was given by the Amending Act, 1897 (V of 1897) Sch III —*see post*

LOCAL EXTENT —This Regulation has been declared, by notification under the Scheduled Districts Act, 1874 (XIV of 1874), section 3, to be in force in the following Scheduled Districts namely —

The Districts of Cachar (excluding the North Cachar Hills), Darrang, Goalpara (excluding the Eastern Duárs) Kámrup, Lakhimpur, Nowgong, Sibsagar (including the tract transferred from the Nagá Hills in 1901) and Sylhet—*see* Vol II, Appendix I, Table B

[3] The words "and City" which were repealed by the Repealing and Amending Act, 1891 (XII of 1891), are omitted

[4] The words "and City," which were repealed by the Repealing Act, 1874 (XVI of 1874), are omitted

[5] The words and figures "prescribed in section 15 of Regulation IV, 1793, viz," which were repealed by the Repealing Act, 1874 (XVI of 1874), are omitted

Estates of Hindus, Muhammadans and others, not being disqualified landholders, leaving wills.

[1]**2.** In all cases of a Hindu, Mussulman or other person, subject to the jurisdiction of the Zila * * [2] Courts, having at his death left a will and appointed an executor or executors to carry the same into effect, and in which the heir to the deceased may not be a disqualified landholder subject to the superintendence of the Court of Wards * * * * [3] the executors so appointed are to take charge of the estate of the deceased, and proceed in the execution of their trust according to the will of the deceased and the laws and usages of the country, without any application to the judge of the Diwáni Adálat or any other officer of Government for his sanction; and the Courts of Justice are prohibited to interfere in such cases, except on a regular complaint against the executors for a breach of trust or otherwise, when they are to take cognizance of such complaint in common with all others of a civil nature * * * [4]

Estates of persons dying intestate.

[1]**3.** In case of a Hindu, Mussulman, or other person subject to the jurisdiction of the Zila * [5] Courts, dying intestate, but leaving a son or other heir, who by the laws of the country, may be entitled to succeed to the whole estate of the deceased, such heir, if of age, and competent to take the possession and management of the estate, or, if under age or incompetent and not under the superintendence of the Court of Wards, his guardian or nearest of kin who, by special appointment or by the law and usage of the country, may be authorized to act for him, is not required to apply to the Courts of Justice for permission to take possession of the estate of the deceased as far as the same can be done without violence; and the Courts of Justice are restricted from interference in such cases, except a regular complaint be preferred * * * [6].

If there be more heirs than one to estate of intestate.

4. If there be more heirs than one to the estate of a person dying intestate, and they can agree amongst themselves in the appointment of a common manager, they are at liberty to take possession, and the Courts of Justice are restricted from interference, without a regular complaint, as in the case of a single heir;

but if the right of succession to the estate be disputed between several claimants, one or more of whom may have taken possession, the judge, on a regular suit being preferred by the party out of possession, shall take good and sufficient security from the party or parties in possession for his or their compliance with the judgment that may be passed in the suit; or, in default of such security being given within a reasonable period, may give possession,

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[1] So much of ss. 2 and 3 as restricts the interference of the Civil Courts in cases of inheritance by minors was repealed by Act XL of 1858 (Minors).

[2] The words "and City" which were repealed by the Repealing Act, 1874 (XVI of 1874), are omitted.

[3] The words and figures "under Regulation X, 1793, or any other Regulation relative to the jurisdiction of the Court of Wards," which were repealed partly by the Repealing Act, 1874 (XVI of 1874), and partly by the Repealing and Amending Act, 1903 (I of 1903), are omitted.

[4] The rest of s. 2, which was repealed by the Repealing Act, 1874 (XVI of 1874) is omitted.

[5] The words "or City," which were repealed by the Repealing Act, 1874 (XVI of 1874), are omitted.

[6] The words "when they are to proceed thereupon according to the general Regulations" which were repealed by the Repealing and Amending Act, 1903 (I of 1903), are omitted.

until the suit may be determined, to the other claimant or claimants who may be able to give such security, declaring at the same time that such possession is not in any degree to affect the right of property at issue between the parties, but to be considered merely as an administration to the estate for the benefit of the heirs who may on investigation be found entitled to succeed thereto

[1] **5.** In the event of none of the claimants to the estate of a person dying intestate being able to give the security required by the preceding section, and in all cases wherein there may be no person authorized and willing to take charge of the landed estate of a person deceased, the Judge within whose jurisdiction such estate may be situated (or in which the deceased may have resided, or the principal part of the estate may lie, in the event of its being situated within two or more jurisdictions) is authorized to appoint an administrator for the due care and management of such estate, until, in the former case, the suit depending between the several claimants shall have been determined, or in the latter case until the legal heir to the estate, or other person entitled to receive charge thereof as executor, administrator or otherwise, shall attend and claim the same, when, if the judge be satisfied that the claim is well founded, or if the same be established after any inquiry that may appear necessary, the administrator appointed by the Court shall deliver over the estate to him, with a full and just account of all receipts and disbursements during the period of his administration.

In what cases Judge may appoint administrator for care and management of estate of intestate

[1] **6.** In all instances of an administrator being appointed under this Regulation, he is, previous to entering upon the execution of his office, to give good security for the faithful discharge of his trust in a sum proportionate to the extent thereof, and the judge appointing him is authorized to fix for him (subject to the approbation of the Court of Sadar Diwáni Adálat, to whom a report is to be made in such instances) an adequate personal allowance to be paid out of the proceeds of the estate, and to be a percentage thereupon, after deducting the expenses of management

Security to be taken from, and allowances paid to, administrators

7. The Judges of the Zila * * [2] Courts, on receiving information that any person within their respective jurisdictions has died intestate, leaving personal property, and that there is no claimant to such property, are to adopt such measures as may be necessary for the temporary care of the property, and to issue an advertisement in the current languages of the country, requiring the heir of the deceased, or any person entitled to receive charge of his effects, to attend for this purpose

Procedure in cases of persons dying intestate leaving personal property to which there is no claimant

Such advertisement to be published on the spot where the property was found, at the Diwáni Adálat cutcherry of the Zila * * [2], and if ascertainable

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[1] Ss 5 and 6 have been modified by the Bengal Attached Estates Management Regulation, 1827 (V of 1827), *post*

[2] The words "*or City*" *which were repealed by the Repealing Act, 1874 (XVI of 1874),* are omitted

2. Regulation 11, 1793[1] shall not be considered to supersede or affect any established usage which may have obtained in the jangul mahals of Midnapur and other districts by which the succession to landed estates, the proprietor of which may die intestate, has hitherto been considered to devolve to a single heir, to the exclusion of the other heirs of the deceased

Regulation 11, 1793, not to operate in jangul mahals of Midnapur and other districts

In the mahals in question the local custom of the country shall be continued in full force as heretofore, and the Courts of Justice be guided by it in the decision of all claims which may come before them to the inheritance of landed property situated in those mahals

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BENGAL REGULATION 10 OF 1804

(THE BENGAL STATE OFFENCES REGULATION, 1804)[2]

[14th December, 1804]

A Regulation for declaring the powers of the Governor General in Council to provide for the immediate punishment of certain offences against the State by the sentence of Courts martial.

1. Whereas during wars in which the British Government has been engaged against certain of the Native Powers of India, certain persons owing allegiance to the British Government have borne arms in open hostility to the authority of the same and have abetted and aided the enemy, and have committed acts of violence and outrage against the lives and properties of the subjects of the said Government,

Preamble

and whereas it may be expedient that, during the existence of any war in which the British Government in India may be engaged with any power whatever, as well as during the existence of open rebellion against the authority of the Government, in any part of the British territories subject to the Government of the Presidency of Fort William, the Governor General in Council should declare and establish martial law within any part of the territories aforesaid, for the safety of the British possessions and for the security of the lives and property of the inhabitants thereof, by the immediate punishment of persons owing allegiance to the British Government who may be taken in arms in open hostility to the said Government, or in the actual commission of any overt act of rebellion against the authority of the same, or in the act of openly aiding and abetting the enemies of the British Government within any part of the territories above specified,

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[1] The Bengal Inheritance Regulation, 1793 It is printed *ante*, p 31

[2] SHORT TITLE.—This short title was given by the Amending Act, 1897 (V of 1897), Sch III —*see post*

LOCAL EXTENT —This [illegible]
Districts Act 1874 (XIV [illegible]
Hills)—*see* Vol II, App [illegible]
under Regulation II of 18[illegible]

the following Regulation has been enacted by the Governor General in Council to be in force throughout the British territories immediately subject to the Government of the Presidency of Fort William, from the date of its promulgation.

Power in time of war to suspend functions of ordinary Criminal Courts, and establish martial law;

2. The Governor General in Council is hereby * * * [1] empowered to suspend, or to direct any public authority or officer to order the suspension of, wholly or partially, the functions of the ordinary Criminal Courts of Judicature, within any zila, district, city or other place, within any part of the British territories subject to the Government of the Presidency of Fort William, and to establish martial law therein, for any period of time while the British Government in India shall be engaged in war with any Native or other Power, as well as during the existence of open rebellion against the authority of the Government, in any part of the territories aforesaid;

and to direct immediate trial by Courts-martial of lieges offending against Regulation.

and also to direct the immediate trial, by Courts-martial, of all persons owing allegiance to the British Government, either in consequence of their having been born, or of their being residents, within its territories and under its protection, who shall be taken in arms in open hostility to the British Government, or in the act of opposing by force of arms the authority of the same, or in the actual commission of any overt act of rebellion against the State, or in the act of openly aiding and abetting the enemies of the British Government within any part of the said territories.

Lieges convicted by Court-martial of crime specified in section 2 liable to immediate punishment of death;

3. * * * [2] any person born or residing under the protection of the British Government within the territories aforesaid, and consequently owing allegiance to the said Government, who, in violation of the obligations of such allegiance, shall be guilty of any of the crimes specified in the preceding section and who shall be convicted thereof by the sentence of a Court-martial during the suspension of the functions of the ordinary Criminal Courts of Judicature and the establishment of the martial-law shall be liable to the immediate punishment of death, and shall suffer the same accordingly, by being hung by the neck till he is dead.

and to forfeiture of property.

All persons who shall, in such cases, be adjudged by a Court-martial to be guilty of any of the crimes specified in this Regulation shall also forfeit to the British Government all property and effects, real and personal, which they shall have possessed within its territories at the time when the crime of which they may be convicted shall have been committed.

Governor General not precluded from causing persons charged with offences to be tried by ordinary Courts.

4. The Governor General in Council shall not be precluded by this Regulation from causing persons charged with any of the offences described in the present Regulation to be brought to trial, at any time, before the ordinary Courts of Judicature, * * * [3] instead of causing such persons to

[1] The words "declared to be," which were repealed by the Repealing and Amending Act, 1891 (XII of 1891), are omitted.

[2] The words "It is hereby further declared that," which were repealed by the same Act, are omitted.

[3] The words and figures "or before any special Court appointed for the trial of such offences, under Regulation IV, 1799, and Regulation XX, 1803" which were repealed by the Repealing Act, 1874 (XVI of 1874), are omitted.

be tried by Courts martial, in any cases wherein the latter mode of trial shall not appear to be indispensably necessary

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BENGAL REGULATION 11 OF 1806

(THE BENGAL TROOPS TRANSPORT AND TRAVELLERS' ASSISTANCE REGULATION, 1806) [1]

[*3rd July, 1806*]

A Regulation for facilitating the progress of detachments of troops through the Company's territories, for affording any requisite assistance to persons travelling through those territories * * [2]

1. WHEREAS it is expedient to enact into a Regulation, for general information and observance, the rules which have been established by Government at different times (with such amendments as have been deemed necessary) for facilitating the progress of military detachments through the Company's Provinces, for ascertaining and defraying any necessary expense incurred for that purpose, and for providing compensation when any material damage may be sustained in the cultivation of the country from the march or encampment of troops, — Preamble

and whereas it has also been judged proper to empower the local officers of police to afford such reasonable assistance as may be required by travellers (whether European or Native) proceeding through their respective jurisdictions in procuring the means of prosecuting their journeys,

* * * * * * [3]

the following rules have been enacted, to be in force throughout the whole of the Provinces subject to the immediate government of the Presidency of Fort William (according as such rules may be applicable to the said Provinces respectively) from the date of their promulgation

2. Whenever a detachment of troops, or a single corps, shall be ordered to proceed by land or by water, through any part of the Company's territories, — Notice to be given to Collectors and Magistrates, by

[1] SHORT TITLE —This short title was given by the Amending Act, 1897 (V of 1897), Sch. III —*see post*

LOCAL EXTENT —This Regulation has been declared [illegible]

[illegible] of 1891), are *omitted*

[3] Portions of section 1 which were repealed by the Repealing and Amending Act, 1891 (XII of 1891), are omitted.

the commanding officer of such detachment or corps is required to give the earliest practicable notice to the Collectors [1] of the revenue of the zilas through which the troops are to pass of the probable time of their arrival within such districts respectively; together with information of the probable period of their arrival at the particular places where supplies may be required, and a specification of the supplies which will be wanted.

The commanding officer will likewise notify to the Collectors[1] the probable period of the arrival of the troops at the rivers or nalas intersecting their march, where boats or temporary bridges may be necessary for crossing the troops and the baggage attached to them * * *[2].

Procedure of Collector on notice.

3. *First.*—On receiving the notification mentioned in the foregoing section the Collector[1] shall immediately issue the necessary orders[3] to the landholders, farmers, tahsildars or other persons in charge of the lands through which the troops are to pass, for providing the supplies required, and for making any requisite preparations of boats or temporary bridges, or otherwise for enabling the troops to cross such rivers or nalas as may intersect their march, without any impediment or delay.

The Collector[1] shall at the same time depute a creditable Native officer to accompany the troops through his jurisdiction, for the purpose of aiding in procuring the necessary supplies and of facilitating the march of the troops.

It shall also be the duty of such Native officer to provide the troops with whatever bearers, *coolies*, [4] boatmen, carts and bullocks may be indispensably necessary to enable the troops to prosecute their route.

Police to assist in providing bearers, boatmen, carts and bullocks.

Should he experience any difficulty in the performance of this duty, he is at liberty to apply for assistance to the nearest police-officer, who is directed to afford his aid in providing the number of persons, and of carts and bullocks required.

Rates for supplies furnished to troops.

Second.—The supplies furnished under the foregoing clause (including earthen pots, firewood and every article of supply) shall be paid for by the persons receiving the same at the current bazar prices of the place at which they may be provided:

Commanding officers to inquire into and redress, complaints against persons under their command.

and all officers commanding detachments of troops or single corps marching through any part of the Company's territories are enjoined to make immediate inquiry into any complaints which may be preferred to them by the persons furnishing such supplies or in their behalf against any person or persons under their command, and to afford such redress to the complainants as the nature of the case may appear to require.

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[1] In Assam, the Deputy Commissioner.

[2] The words "The Commanding Officer will at the same time communicate to the Magistrates of the zilas through which the troops are to pass the probable time of the arrival of the troops within their respective jurisdictions," which were repealed by the Repealing and Amending Act. 1897 (V of 1897), are omitted.

[3] As to fines imposable on landholders and other persons for disobedience to orders issued under this section, *see* the Bengal Troops Transport Regulation, 1825 (VI of 1825), *post.*

[4] This Regulation has been repealed as to coolies—*see* footnote on page 41, *ante.*

4. *First* —Whenever a detachment of troops or single corps shall be provided with boats, temporary bridges or other accommodations by any landholder, farmer, tahsildar or other person, conformably to the orders of the Collector [1] of the zila, for the purpose of crossing the troops and their baggage over rivers or nalas, the commanding officer of such detachment or corps will grant a certificate to the persons furnishing the same, specifying the number of boats and persons employed, the barthen of each boat, and how long employed on the public service

Certificate to be granted by commanding officer when troops are provided with boats, etc

In instances in which temporary bridges may be constructed for the above purpose, the certificate to be granted by the commanding officer is to specify generally the dimensions of the bridges and the materials of which they may be composed

Second —The certificate mentioned in the foregoing clause shall be immediately transmitted to the Collector [1] of the zila by the person receiving it, accompanied by a detailed account of the expense incurred for the purposes therein specified

Certificate to be sent to Collector with account

The Collector[1] shall without delay communicate the particulars of the account to the officer commanding the detachment or corps on whose account the expense may have been incurred, who shall certify generally thereon whether the services charged for in it were performed or shall state such exceptions as he may have to offer to any of the charges

Account to be sent by Collector to commanding officer

Endorsement by commanding officer

Third —When the account above-mentioned shall be returned to the Collector [1] he shall certify whether the sums and rates charged in it are in his opinion reasonable and conformable to the usual rates of labour and hire in the zila, and shall transmit the account, with the vouchers and certificates relating to it, with any requisite observations thereupon, through the prescribed channel, to the[2] [Local Government]

Account and vouchers to be sent by Collector with his report to Governor General

After the account shall have undergone the examination and report prescribed for all military contingent charges, the[2] [Local Government] will pass such final order as may appear proper

In the meantime the Collector[1] is empowered in such cases to pay the amount of the charge, or such proportion of it as he may consider reasonable, to the landholder, farmer or other person entitled thereto, inserting the amount so disbursed by him at the foot of his treasury-account, in explanation of his treasury balance, in the mode prescribed for similar cases

Collector may pay charge if reasonable

5. *First* —Whenever a proprietor, farmer, tenant or manager of land, through which any detachment or corps of the company's troops may march, or on which they may be encamped, shall consider himself entitled to compensation for any injury sustained from the march or encampment of the troops, he shall immediately furnish the commanding officer of such troops with as

Procedure for landholders, etc, sustaining injury from march or encampment

Certificate by commanding officer

[1] In Assam, the Deputy Commissioner

[2] These words in square brackets in s 4 (3) were substituted for the words "Governor General in Council" by the Amending Act, 1897 (V of 1897), Sch II—see post

accurate a statement as can be prepared of the nature and extent of the injury sustained; when the commanding officer is required to certify generally thereon whether or not the damage represented to have been sustained has been actually committed, together with his opinion respecting the justice and extent of the claim.

Certificate with statement of claim to be presented to Collector within ten days.

Second.—If the proprietor, farmer, tenant or manager, after receiving such certificate, shall consider himself entitled to compensation, he will be at liberty to present the statement of his claim, with the commanding officer's certificate thereon, to the Collector[1] of the zila (either in person or by his vakil) within ten days from the date of the certificate; but no claim of his description shall be received by the Collector[1] after the expiration of that period, unless the person preferring it shall assign good and satisfactory reason for the delay.

The Collector,[1] on receiving a statement of damage and the commanding officer's certificate thereon within the prescribed period, or afterwards if sufficient reason be assigned for the delay, shall forthwith adopt such measures as may appear requisite to ascertain whether or not the claim be well founded; and shall report his proceedings to the Board of Revenue,[2] accompanied by his opinion on the merits of the claim, for the consideration and orders of Government.

It is, however, declared that no claim will be received unless accompanied by the prescribed certificate of the commanding officer of the troops by whom the damage may be stated to have been committed; excepting in instances in which the claimant can show good and sufficient cause for not having obtained such certificate.

In such cases, if the Collector[1] shall be satisfied with the cause assigned by the claimant for not having obtained the prescribed certificate, he shall transmit the petition and statement of the claimant to the officer commanding the troops by whom the damage may be stated to have been committed, and shall wait his reply thereto previously to determining whether or not the claim be entitled to investigation.

Procedure by Magistrates on receiving notice mentioned in section 2.

6. Immediately on receiving the notification mentioned in section 2, the Magistrates shall transmit orders to the several police-darogas or other local officers of the police through whose jurisdiction the troops are to pass to afford every assistance in their power to facilitate the march of the troops through their respective jurisdictions; and to co-operate, as far as necessary, with the person deputed on the part of the Collector[1] in procuring the requisite supplies, as well as in adjusting any disputes which may arise respecting the prices of the articles furnished, and in preventing any alarm to the inhabitants of the country.

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[1] In Assam, the Deputy Commissioner.
[2] In Assam, the Chief Commissioner—*see* the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (VII of 1912), s. 3, and Sch. D, Pt. III, *post*.

Report to Commander-in-Chief by officers commanding troops on march

7. Officers commanding detachments of troops or single corps on their march through any part of the Company's territories are already required, by the general orders issued under date the 1st of February, 1788, to report to the Commander-in-Chief in what manner the troops have been supplied in passing through the districts lying in their route

In like manner, the Collectors[1] are directed to report to the Board of Revenue[2], * * *[3], any complaints which may be made to them of the misbehaviour of the troops, when such complaints shall appear to be well founded and of sufficient importance to require communication to Government

Police empowered, in cases of necessity, to assist travellers in prosecuting their route.

8. Whenever any military officer, not commanding nor proceeding with a corps or detachment of troops, or any other person (whether European or Native) not restricted by Government from passing through the country, may be proceeding within any part of the Company's Provinces, either on the public service or on his private affairs, and shall be in need of assistance during his route to enable him to prosecute his journey, he shall be at liberty to apply to the nearest local officer of police to aid him in providing any requisite bearers, *coolies*,[4] boatmen, carts or bullocks, or any necessary supplies of provisions or other articles

Assistance how afforded

On receiving an application of the above nature the police-officer to whom it may be made shall furnish the aid required or cause it to be furnished by the proper person or persons provided that a sufficient number of persons who have been accustomed to act as bearers, *coolies*[4] or boatmen, or the requisite number of carts and bullocks, not exclusively appropriated to the purposes of agriculture and occasionally let for hire, can be procured within his jurisdiction

Persons and carts and bullocks not to be employed in *furnishing* assistance

But all police-officers are strictly forbidden, under pain of dismission from office * * * [5], on applications of the above nature, to compel any persons not accustomed to act as bearers, *coolies* [4] or boatmen, to serve on such occasions, or to furnish a traveller, or cause him to be furnished, with bullocks or carts kept for private use and not for hire, or exclusively appropriated to the purposes of agriculture

Person employed to be at liberty to return from first police station

Persons so employed, and the persons in charge of carts and bullocks so provided, shall be at liberty to return from the first police-station in the next zila through which the corps or detachment is to march, unless a voluntary engagement to the contrary may be entered into by such persons

Conditions of assistance to travellers

The police-officers are further enjoined to be careful that a proper compensation for the bearers, *coolies*, [4] boatmen, carts or bullocks employed, and a

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[1] In Assam, the Deputy Commissioner ... nd Assam Laws

... ie information of

... 1 Amending Act,

... "I *ante*

... 504," which were

just price for the provisions or other articles provided, be secured to the persons entitled thereto.

For this purpose the police-officers are authorized to adjust the rate of hire to be paid for the bearers, *coolies*,[1] boatmen, carts and bullocks required and the price of any articles provided, as well as to demand that the whole or a part, according to the circumstances of the case, be paid in advance.

Should any traveller refuse to comply with the adjustment or demand so made by a police-officer, he will not be entitled to any assistance from the officers of Government under this Regulation.

9. [*Prohibition against persons not in the military service wearing military dress.*] *Rep. by the Repealing Act, 1874 (16 of 1874).*

10. [*Trial of military guards by martial law in certain cases.*] *Rep. by the Repealing Act, 1876 (12 of 1876).*

11, 12. [*Rules for promulgating Regulations.*] *Rep. by the Repealing Act, 1874 (16 of 1874).*

13-19. [*Rules for supplying military guards or detachments; permanent guards; temporary guards; monthly report of guards, etc., supplied; application of rules; non-applicability in Presidency stations.*] *Rep. by the Repealing Act, 1876 (12 of 1876).*

20. [*Repeal of cl. (1), s. 22 of Reg. 1 of 1804.*] *Rep. by Ben. Reg. 2 of 1811.*

BENGAL REGULATION 11 OF 1812.

(THE BENGAL FOREIGN IMMIGRANTS REGULATION, 1812).[2]

[*18th July, 1812.*

A Regulation to empower the [3] [Local Government] to order the removal of emigrants from foreign countries, and their descendants, from any place in the vicinity of the frontier of the State from which they may have emigrated; and, in certain cases, to place and detain any such persons in safe custody; and likewise to provide for the trial of emigrants and their descendants who may excite disturbances in the countries from which they may have emigrated, and of persons aiding them in the prosecution of such attempts.

Preamble. **1.** WHEREAS considerable bodies of persons, being Natives of Arakan

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[1] This Regulation has been repealed as to coolies—*see* footnote on page 41 *ante*.

[2] SHORT TITLE.—This short title was given by the Amending Act, 1897 (V of 1897), Sch. III—*see post*.

LOCAL EXTENT.—This Regulation has been declared, by notification under the Scheduled Districts Act, 1874 (XIV of 1874), s. 3, to be in force in Assam (except the North Lushai Hills)—*see* Vol. II. Appendix I, Table B. It is not in force in the Lushai Hills; *see* Vol. II, App II, Table D.

[3] The words, "Local Government" were substituted for the words "Governor General in Council" by the Amending Act, 1897 (V of 1897), Sch. II—*see post*.

and ordinarily denominated Muggs, have from time to time emigrated from that country and established themselves in that part of the district of Chittagong which lies contiguous to the Arakan frontier,

And whereas numbers of those persons, or of their descendants, abusing the protection which had been afforded to them in the British territories, have excited disturbances, and even levied war in the country of Arakan against the Government of Ava,[1] of which State Arakan is now a dependency, and have conducted themselves in a manner manifestly tending to disturb the relations of amity which subsist between the British Government and the Government of Ava, [1]

And whereas it is, in consequence, necessary that the [2] [Local Government] should possess legal powers to remove the said bodies of emigrants and their descendants from the frontier of the territory of Arakan, or any other bodies of aliens, or their descendants from the vicinity of the country from which they may have emigrated, and likewise to detain in confinement any of those persons, or any other individuals being Natives of foreign countries, or their descendants, for offences of the above nature actually committed by them in the territories of the State from which they may have emigrated,

And whereas it is necessary to make provision for the trial of persons committing, or aiding in the commission of, the said offences,

The following rules have been passed, to be in force from the period of their promulgation throughout the territories immediately dependent on the Presidency of Fort William

2. Whenever the [2][Local Government], upon due investigation, shall be satisfied that the emigrants from Arakan, or emigrants from any other State, who may have sought an asylum in the British territories, or the descendants of any of the said emigrants, shall have abused the protection afforded to them, by attempts to excite disturbances in the State from which they or their ancestors may have emigrated, it shall be competent to the [2][Local Government] to order the removal of those persons to such other part or parts of the country as may be judged most convenient for their future residence

Power to order removal of emigrants to parts of country deemed convenient

In like manner it shall be competent to the [2][Local Government] to order such removal whenever [3][it] may have grounds to be satisfied that the residence of any body of aliens, or their descendants, in the vicinity of the frontier of the country from which they or their ancestors may have emigrated, is likely to cause any serious misunderstanding between that State and the British Government

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[1] The Government of Ava has ceased to exist, its territories having been annexed to the [illegible] Upper Burma"

[illegible] for the words "Governor General in [illegible] II —*see post*

[illegible] by the Burma Laws Act, 1898 (XIII

Emigrants allowed to dispose of property.

3. Whenever any body of emigrants, or any individuals belonging to such body, shall be ordered to be removed from the part of the country in which they may have been established, they shall be allowed to dispose of any property which they may have acquired in such manner as they may judge proper:

Provided, however, that if they shall nevertheless retain the right to any real property at the period of their actual removal, it shall be competent to the [1][Local Government] to order such property to be sold by public auction under the superintendence of the Collector [2]of the district.

In that case the net proceeds of the sale shall be duly paid to the person or persons to whom the said property belonged.

Power to order leaders or other emigrants to be apprehended and kept under restraint.

4. In cases in which the[1] [Local Government] may, on due inquiry and mature deliberation, be satisfied that, either the preservation of the tranquillity of the British territories, or of the dominions of the allies of the British Government, or the maintenance of the relations of amity subsisting between the British Government and other States, requires that any of the leaders or other persons of the above description, who may have committed the offences mentioned in section 2 of this Regulation, should be placed and detained under restraint, it shall be competent to the[1] [Local Government] to order any such persons having committed any of the said offences, but not otherwise, to be apprehended and committed to confinement at such place, and under the custody of such public officer, and detained in confinement, for such time, as may be deemed by the[1] [Local Government] necessary for the public good.

Punishment for emigrants or their descendants exciting disturbances in countries from which they emigrated.

5. *First.*—Any persons of the above description, or their descendants, who, while living under the protection of the British Government, shall enter the country from which they or their ancestors may have emigrated, or any other foreign country, and shall excite, or attempt to excite, disturbances in the said countries, shall be liable to be brought to trial for that offence * * [3]and, if convicted, shall be sentenced to suffer imprisonment for the period of seven years.

Punishment for persons aiding or assisting in attempts to excite such disturbances.

Second.—Any persons, whether Native British subjects or aliens, who shall furnish emigrants from foreign countries with any assistance, either of men, money or arms, in prosecution of their attempts to excite disturbances in the country from which they may have emigrated, or in any other country, or shall otherwise aid such aliens in the prosecution of their criminal design, shall be liable to be brought to trial for that offence * * * [3], and, if convicted, shall be sentenced to suffer imprisonment for the term of seven years:

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[1] The words "Local Government" were substituted for the words "Governor General in Council" by the Amending Act, 1897 (V of 1897), Sch. II.—*see post.*

[2] In Assam, the Deputy Commissioner.

[3] The words "before the Court of Circuit," which were repealed by the Repealing Act, 1874 (XVI of 1874), are omitted.

Provided, however, that, if the Judge * *[1] by whom the case may be tried shall be of opinion that the punishment established by this and the preceding clause should in any instance be mitigated, he shall submit the proceedings held on the trial [2] [to the Local Government, and the Local Government shall pass such orders thereon as it may think fit] Proviso.

Provided, moreover, that no sentence or order which may be passed on the trial of any persons under the provisions of the present Regulation shall be competent, or shall be construed, to preclude the [3] [Local Government] from the exercise of the power vested in the Government by section 4 of [4][this Regulation]

BENGAL REGULATION 3 of 1818.

(The Bengal State Prisoners Regulation, 1818) [5]

[7th April, 1818]

A Regulation for the confinement of State prisoners.

1. Whereas reasons of State, embracing the due maintenance of the alliances formed by the British Government with foreign Powers, the preservation of tranquillity in the territories of Native Princes entitled to its protection, and the security of the British dominions from foreign hostility and from internal commotion, occasionally render it necessary to place under personal restraint individuals against whom there may not be sufficient ground to institute any judicial proceeding, or when such proceeding may not be adapted to the nature of the case, or may for other reasons be unadvisable or improper: Preamble

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[1] The words "of Circuit" which were repealed by the same Act, are omitted

[2] These words in square brackets were substituted for the words "to the Nizamat Adálat, who will recommend to the Governor General in Council such alleviation of the prescribed punishment as they may judge proper" by the Amending Act, 1897 (V of 1897), Sch II—*see post*

[3] The words "Local Government" were substituted for the words "Governor General in [illegible]

[4] [illegible] "by [illegible] 1897 [illegible] uled Dis tricts, namely — [illegible]

Appendix II, Table D [illegible]

This Regulation has been declared by the State Prisoners Act, 1858 (III of 1858), s 2 (printed in General Acts, Vol I), to be in force within the local limits of the jurisdiction of the High Court

Emigrants allowed to dispose of property.

3. Whenever any body of emigrants, or any individuals belonging to such body, shall be ordered to be removed from the part of the country in which they may have been established, they shall be allowed to dispose of any property which they may have acquired in such manner as they may judge proper:

Provided, however, that if they shall nevertheless retain the right to any real property at the period of their actual removal, it shall be competent to the [1][Local Government] to order such property to be sold by public auction under the superintendence of the Collector [2]of the district.

In that case the net proceeds of the sale shall be duly paid to the person or persons to whom the said property belonged.

Power to orders leaders or other emigrants to be apprehended and kept under restraint.

4. In cases in which the[1] [Local Government] may, on due inquiry and mature deliberation, be satisfied that either the preservation of the tranquillity of the British territories, or of the dominions of the allies of the British Government, or the maintenance of the relations of amity subsisting between the British Government and other States, requires that any of the leaders or other persons of the above description, who may have committed the offences mentioned in section 2 of this Regulation, should be placed and detained under restraint, it shall be competent to the[1] [Local Government] to order any such persons having committed any of the said offences, but not otherwise, to be apprehended and committed to confinement at such place, and under the custody of such public officer, and detained in confinement, for such time, as may be deemed by the[1] [Local Government] necessary for the public good.

Punishment for emigrants or their descendants exciting disturbances in countries from which they emigrated.

5. *First.*—Any persons of the above description, or their descendants, who, while living under the protection of the British Government, shall enter the country from which they or their ancestors may have emigrated, or any other foreign country, and shall excite, or attempt to excite, disturbances in the said countries, shall be liable to be brought to trial for that offence * * [3]and, if convicted, shall be sentenced to suffer imprisonment for the period of seven years.

Punishment for persons siding or assisting in attempts to excite such disturbances.

Second.—Any persons, whether Native British subjects or aliens, who shall furnish emigrants from foreign countries with any assistance, either of men, money or arms, in prosecution of their attempts to excite disturbances in the country from which they may have emigrated, or in any other country, or shall otherwise aid such aliens in the prosecution of their criminal design, shall be liable to be brought to trial for that offence * * * [3], and, if convicted, shall be sentenced to suffer imprisonment for the term of seven years:

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[1] The words "Local Government" were substituted for the words "Governor General in Council" by the Amending Act, 1897 (V of 1897), Sch. II.—*see post.*

[2] In Assam, the Deputy Commissioner.

[3] The words "before the Court of Circuit," which were repealed by the Repealing Act, 1874 (XVI of 1874), are omitted.

Provided, however, that, if the Judge * *[1] by whom the case may be tried shall be of opinion that the punishment established by this and the preceding clause should in any instance be mitigated, he shall submit the proceedings held on the trial [2] [to the Local Government, and the Local Government shall pass such orders thereon as it may think fit] Proviso

Provided, moreover, that no sentence or order which may be passed on the trial of any persons under the provisions of the present Regulation shall be competent, or shall be construed, to preclude the [3] [Local Government] from the exercise of the power vested in the Government by section 4 of [4][this Regulation]

BENGAL REGULATION 3 OF 1818

(THE BENGAL STATE PRISONERS REGULATION, 1818) [5]

[7th April, 1818]

A Regulation for the confinement of State prisoners

1. WHEREAS reasons of State, embracing the due maintenance of the alliances formed by the British Government with foreign Powers, the preservation of tranquillity in the territories of Native Princes entitled to its protection, and the security of the British dominions from foreign hostility and from internal commotion, occasionally render it necessary to place under personal restraint individuals against whom there may not be sufficient ground to institute any judicial proceeding, or when such proceeding may not be adapted to the nature of the case, or may for other reasons be unadvisable or improper Preamble

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[1] The words "of Circuit" which were repealed by the same Act, are omitted

[2] These words in square brackets were substituted for the words 'to the Nizamat Adálat, who will recommend to the Governor General in Council such alleviation of the prescribed punishment as they may judge proper" by the Amending Act, 1897 (V of 1897), Sch II—*see post*

[3] [illegible] al in [illegible] "by [illegible] 1897 (V of 1897) Sch III—*see post*

LOCAL EXTENT —This Regulation has been declared, by notification under the Scheduled Districts Act, 1874 (XIV of 1874), section 3, to be in force in the following Scheduled Districts, namely — [illegible]

Appendix II Table D

This Regulation has been declared by the State Prisoners Act, 1858 (III of 1858) s 2 (printed in General Acts, Vol I), to be in force within the local limits of the jurisdiction of the High Court

and whereas it is fit that, in every case of the nature herein referred to the determination to be taken should proceed immediately from the authority of the Governor General in Council;

and whereas the ends of justice require that, when it may be determined that any person shall be placed under personal restraint, otherwise than in pursuance of some judicial proceeding, the grounds of such determination should from time to time come under revision, and the person affected thereby should at all times be allowed freely to bring to the notice of the Governor General in Council all circumstances relating either to the supposed grounds of such determination, or to the manner in which it may be executed;

and whereas the ends of justice also require that due attention be paid to the health of every State prisoner confined under this Regulation, and that suitable provision be made for his support according to his rank in life, and to his own wants and those of his family;

and whereas the reasons above declared sometimes render it necessary that the estates and lands of zamindars, talukdars and others suitated within the territories dependent on the Presidency of Fort William should be attached and placed under the temporary management of the Revenue authorities without having recourse to any judicial proceeding;

and whereas it is desirable to make such legal provisions as may secure from injury the just rights and interest of individuals whose estates may be so attached under the direct authority of Government;

the Vice-President in Council has enacted the following rules, which are to take effect, throughout the provinces immediately subject to the Presidency of Fort William, from the date on which they may be promulgated.

Proceedings for placing persons under restraint as State Prisoners.

2. *First.*—When the reasons stated in the preamble of this Regulation may seem to the Governor General in Council to require that an individual should be placed under personal restraint, without any immediate view to ulterior proceedings of a judicial nature, a warrant of commitment under the authority of the Governor General in Council, and under the hand of the Chief Secretary, or of one of the Secretaries to Government, shall be issued to the officer in whose custody such person is to be placed.

Form of warrant.

Second.—The warrant of commitment shall be in the following form:—

To the [1] [*insert the officer's designation*].

"Whereas the Governor General in Council, for good and sufficient reasons, has seen fit to determine that (*here insert the State prisoner's name*) shall be placed under personal restraint at (*here insert the name of the place*), you are hereby required and commanded, in pursuance of that determination, to receive the person above-named into your custody, and to deal with him in

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[1] As to the officers to whom warrants may be addressed, *see* the State Prisoners Act, 1850 (XXXIV of 1850), Genl. Acts, Vol. I, and the Prisoners Act, 1871 (V of 1871), s. 15, in *ibid*, Vol. II.

conformity to the orders of the Governor General in Council and the provisions of Regulation 3 of 1818

Fort William, the

" By order of the Governor General in Council,

"*A B*, Chief Secy to Govt"

Third —The warrant of commitment shall be sufficient authority for the detention of any State prisoner in any fortress, jail or other place within the territories subject to the Presidency of Fort William Authority of warrant

3. Every officer in whose custody any State prisoner may be placed shall, on the 1st of January and 1st of July of each year, submit a report to the Governor General in Council, through the Secretary to Government in the Political Department, on the conduct, the health and the comfort of such State prisoner, in order that the Governor General in Council may determine whether the orders for his detention shall continue in force or shall be modified Officers having custody of State prisoners to submit periodical reports

4. *First* —When any State prisoner is in the custody of a Zila * * [1] Magistrate, the Judges* * [[2]] are to visit such State prisoner on the occasion of the periodical sessions, and they are to issue any orders concerning the treatment of the State prisoner which may appear to them advisable, provided they be not inconsistent with the orders of the Governor General in Council issued on that head State prisoners in custody of Zila or City Magistrate, by whom to be visited

Second —When any State prisoner is placed in the custody of any public officer not being a Zila * * [1] Magistrate, the Governor General in Council will instruct either the Zila * * [1] Magistrate, or the Judge, * * [2] or any other public officer, not being the person in whose custody the prisoner may be placed, to visit such prisoner at stated periods and to submit a report to Government regarding the health and treatment of such prisoner State prisoners in custody of public officer, not being Zila, or City Magistrate, by whom to be visited

5. The officer in whose custody any State prisoner may be placed is to forward, with such observations as may appear necessary, every representation which such State prisoner may from time to time be desirous of submitting to the Governor General in Council Representations by State prisoners to be submitted to Government

6. Every officer in whose custody any State prisoner may be placed shall, as soon after taking such prisoner into his custody as may be practicable, report to the Governor General in Council whether the degree of confinement to which he may be subjected appears liable to injure his health, and whether the allowance fixed for his support be adequate to the supply of his own wants and those of his family, according to their rank in life Report to Government regarding confinement, etc, of prisoners

7. Every officer in whose custody any State prisoner may be placed shall take care that the allowance fixed for the support of such State prisoner is duly appropriated to that object. Appropriation of allowance for support of State prisoners.

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[1] The words " or City," which were repealed by the Repealing and Amending Act, 1903 (I of 1903), are omitted

[2] The words " of Circuit," which were repealed by the Repealing Act, 1874 (XVI of 1874), are omitted.

and whereas it is fit that, in every case of the nature herein referred to the determination to be taken should proceed immediately from the authority of the Governor General in Council;

and whereas the ends of justice require that, when it may be determined that any person shall be placed under personal restraint, otherwise than in pursuance of some judicial proceeding, the grounds of such determination should from time to time come under revision, and the person affected thereby should at all times be allowed freely to bring to the notice of the Governor General in Council all circumstances relating either to the supposed grounds of such determination, or to the manner in which it may be executed;

and whereas the ends of justice also require that due attention be paid to the health of every State prisoner confined under this Regulation, and that suitable provision be made for his support according to his rank in life, and to his own wants and those of his family;

and whereas the reasons above declared sometimes render it necessary that the estates and lands of zamindars, talukdars and others suitated within the territories dependent on the Presidency of Fort William should be attached and placed under the temporary management of the Revenue authorities without having recourse to any judicial proceeding;

and whereas it is desirable to make such legal provisions as may secure from injury the just rights and interest of individuals whose estates may be so attached under the direct authority of Government;

the Vice-President in Council has enacted the following rules, which are to take effect, throughout the provinces immediately subject to the Presidency of Fort William, from the date on which they may be promulgated.

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[1] As to the officers to whom warrants may be addressed, *see* the State Prisoners Act, 1850 (XXXIV of 1850), Genl. Acts, Vol. I, and the Prisoners Act, 1871 (V of 1871), s. 15, in *ibid*, Vol. II.

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4. *First* —When any State prisoner is in the custody of a Zila * * [1] Magistrate, the Judges* * [[2]] are to visit such State prisoner on the occasion of the periodical sessions, and they are to issue any orders concerning the treatment of the State prisoner which may appear to them advisable, provided they be not inconsistent with the orders of the Governor General in Council issued on that head State prisoners in custody of Zila or City Magistrate, by whom to be visited.

Second —When any State prisoner is placed in the custody of any public officer not being a Zila * * [1] Magistrate, the Governor General in Council will instruct either the Zila * * [1] Magistrate, or the Judge, * * [2] or any other public officer, not being the person in whose custody the prisoner may be placed, to visit such prisoner at stated periods and to submit a report to Government regarding the health and treatment of such prisoner State prisoners in custody of public officer, not being Zila, or City Magistrate, by whom to be visited

5. The officer in whose custody any State prisoner may be placed is to forward, with such observations as may appear necessary, every representation which such State prisoner may from time to time be desirous of submitting to the Governor General in Council Representations by State prisoners to be submitted to Government

6. Every officer in whose custody any State prisoner may be placed shall, as soon after taking such prisoner into his custody as may be practicable, report to the Governor General in Council whether the degree of confinement to which he may be subjected appears liable to injure his health, and whether the allowance fixed for his support be adequate to the supply of his own wants and those of his family, according to their rank in life Report to Government regarding confinement, etc, of prisoners

7. Every officer in whose custody any State prisoner may be placed shall take care that the allowance fixed for the support of such State prisoner is duly appropriated to that object. Appropriation of allowance for support of State prisoners

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[1] The words "or City," which were repealed by the Repealing and Amending Act, 1903 (I of 1903), are omitted

[2] The words "of Circuit," which were repealed by the Repealing Act, 1874 (XVI of 1874), are omitted.

8. [*Applicability of ss. 3-7 to persons now confined as State prisoners*] *Rep. by the Repealing Act, 1874 (16 of 1874).*

Attachment of estates by order of Government without decision of Court.

9. Whenever the Governor General in Council, for the reasons declared in the preamble to this Regulation, shall judge it necessary to attach the estates or lands of any zamindar, jágírdar, talukdar, or other person, without any previous decision of a Court of Justice or other judicial proceeding, the grounds on which the Resolution of Government may have been adopted, and such other information connected with the case as may appear essential, shall be communicated, under the hand of one of the Secretaries to Government, to the Judge and Magistrate of the district in which the lands or estates may be situated, [1] [and] to * * * [2] the sadar Diwáni Adálat and Nizamat Adálat.

Management of attached estates.

10. *First.*—The lands or estates which may be so temporarily attached shall be held under the management of the officers of Government in the Revenue Department; and the collections shall be made and adjudged on the same principles as those of other estates held under khas management.

Attached lands not liable to sale in execution.

Second.—Such lands or estates shall not be liable to be sold in execution of decrees of the Civil Courts, or for the realization of fines or otherwise, during the period in which they may be so held under attachment.

Government to arrange for satisfaction of decrees.

Third.—In the cases mentioned in the preceding clause, the Government will make such arrangement as may be fair and equitable for the satisfaction of the decrees of the Civil Courts.

Rules as to cases where Government orders release estate from attachment.

11. Whenever the Governor General in Council shall be of opinion that the circumstances which rendered the attachment of such estate necessary have ceased to operate, and that the management of the estate can be committed to the hands of the proprietor without public hazard or inconvenience, the Revenue-authorities will be directed to release the estate from attachment, to adjust the accounts of the collections during the period in which they may have been superintended by the officers of Government, and to pay over to the proprietor the profits from the estate which may have accumulated during the attachment.

BENGAL REGULATION 8 OF 1819.

(THE BENGAL PATNI TALUKS REGULATION, 1819.)

CONTENTS.

SECTION.

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[1] This word "and," in s. 9, was inserted by the Amending Act, 1891 (XII of 1891), Sch. II—*see* Genl. Acts, Vol. IV.

[2] The words "to the Provincial Court of Appeal and Circuit, and," which were repealed by the Repealing Act, 1874 (XVI of 1874), are omitted.

SECTION.

17. *Second.*—Deduction on account of Government.
Third.—Payment to zamindars.
Fourth.—Disposal of remainder.
Fifth.—Under-tenants free to prosecute for price of their interest or compensation.
Sixth.—Suit not to lie if under-tenant be himself in arrear at time of sale.
Seventh.—When defaulter to receive excess unclaimed.
Eighth.—Substitution of Government securities for cash in deposit.

18, 19. [*Repealed.*]

BENGAL REGULATION 8 OF 1819.

(THE BENGAL PATNI TALUKS REGULATION, 1819.) [1]

[*3rd September, 1819*].

A Regulation to declare the validity of certain tenures, and to define the relative rights of zamindars and patni talukdars; also to establish a process for the sale of such taluks in satisfaction of the zamindar's demand of rent * * [2].

Preamble. **1.** By the rules of the perpetual settlement, [3] proprietors of estates paying revenue to Government, that is, the individual answerable to Government for the revenue then assessed on the different mahals were declared to be entitled to make any arrangements for the leasing of their lands in taluk or otherwise that they might deem most conducive to their interests.

By the rules of Regulation 44, 1793, [4] however, all such arrangements were subjected to two limitations; first, that the jama or rent should not be fixed for a period exceeding ten years; and, secondly, that in case of a sale for Government arrears, such leases or arrangements should stand cancelled from the day of sale.

The provisions of section 2, Regulation 44, 1793, [4] by which the period of all fixed engagements for rent was limited to ten years, have been rescinded by section 2, Regulation 5, 1812 [5]; and in Regulation 18 [6] of the same year, it is more distinctly declared that zamindars are at liberty to grant taluks or other leases of their lands, fixing the rent in perpetuity at their

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[1] SHORT TITLE.—This short title was given by the Amending Act, 1897 (V of 1897), Sch. III—*see post.*
LOCAL EXTENT.—This Regulation is in force in the district of Sylhet—*see* the Assam Land-revenue Manual, 1906, Introduction, p. *ix*.
[2] Words repealed by the Repealing and Amending Act, 1891 (XII of 1891), are omitted.
[3] *See* the Bengal Permanent Settlement Regulation, 1793 (I of 1793), *ante*, p. 2.
[4] Ben. Reg. XLIV of 1793 was repealed by Act XXIX of 1871.
[5] The Bengal Land-revenue Sales Regulation, 1812. It has been repealed in Assam by the Assam Land and Revenue Regulation, 1886 (I of 1886), s. 2, *post.*
[6] The Bengal Leases and Land-revenue Regulation, 1812. It has been repealed in Assam by the Assam Land and Revenue Regulation, 1886 (I of 1886).

discretion, subject, however, to the liability of being dissolved on sale of the grantor's estate for arrears of the Government revenue in the same manner as heretofore

In practice, the grant of taluks and other leases at a rent fixed in perpetuity had been common with the zamindars of Bengal for some time before the passing of the two Regulations last mentioned, but, notwithstanding the abrogation of the rule which declared such arrangements null and void, and the abandonment of all intention or desire to have it enforced as a security to the Government revenue in the manner originally contemplated, it was omitted to declare in the rules of Regulations 5 [1] and 18 [1] of 1812, or in any other Regulations, whether tenures at the time in existence and held, under covenants or engagements entered into by the parties in violation of the rule of section 2, Regulation 44, 1793 [2] should, if called in question, be deemed invalid and void as heretofore

This point it has been deemed necessary to set at rest by a general declaration of the validity of any tenures that may be now in existence, notwithstanding that they may have been granted at a rent fixed in perpetuity, or for a longer term than ten years, while the rule fixing this limitation to the term of all such engagements, and declaring null and void any granted in contravention thereto, was in force

Furthermore, in the exercise of the privilege thus conceded to zamindars under direct engagements with Government, there has been created a tenure which had its origin on the estates of the Raja of Burdwan, but has since been extended to other zamindaris, the character of which tenure is that it is a taluk created by the zamindar, to be held at a rent fixed in perpetuity by the lessee and his heirs for ever, the tenant is called upon to furnish collateral security for the rent, and for his conduct generally, or he is excused from this obligation at the zamindars' discretion, but even if the original tenant be excused, still, in case of sale for arrears, or other operation leading to the introduction of another tenant, such new incumbent has always in practice been liable to be so called upon at the option of the zamindar

By the terms also of the engagements interchanged, it is amongst other stipulations provided that, in case of an arrear occurring, the tenure may be brought to sale by the zamindar, and, if the sale do not yield a sufficient amount to make good the balance of rent at the time due, the remaining property of the defaulter shall be further answerable for the demand

These tenures have usually been denominated patni taluks, and it has been a common practice of the holders of them to underlet on precisely similar terms to other persons, who on taking such leases went by the name of darpatani talukdars these again sometimes similarly underlet to sepatni-

[1] *See* footnotes [5] & [6] on p 54
[2] Ben Reg XLIV of 1793 was repealed by Act XXIX of 1871

dárs; and the conditions of all the title-deeds vary in nothing material from the original engagements executed by the first holder.

In these engagements, however, it is not stipulated whether the sale thus reserved to himself by the grantor is for his own benefit, or for that of the tenant; that is, whether, in case the proceeds of sale should exceed the zamindar's demand of rent, the tenant would be entitled to such excess; neither is the manner of sale specified, nor do the usages of the country nor the Regulations of Government afford any distinct rules by the application of which to the specific cases the defects above alluded to could be supplied or the points of doubt and difficulty involved in the omission be brought to determination in a consistent and uniform manner.

The tenures in question have extended through several zilas of Bengal, and the mischiefs which have arisen from the want of a consistent rule of action for the guidance of the Courts of Civil Judicature in regard to them have been productive of such confusion as to demand the interference of the legislature: it has accordingly been deemed necessary to regulate and define the nature of the property given and acquired on the creation of a patni taluk as above described, also to declare the legality of the practice of under-letting in the manner in which it has been exercised by patnidars and others, establishing at the same time such provisions as have appeared calculated to protect the under-lessee from any collusion of his immediate superior with the zamindar or other, for his ruin, as well as to secure the just rights of the zamindar on the sale of any tenure under the stipulations of the original engagements entered into with him.

It has further been deemed indispensable to fix the process by which the said tenures are to be brought to sale, and the form and manner of conducting such sale; and

whereas the estates of zamindars under engagements with Government are liable to be brought to sale at any time for an arrear in the revenue payable by monthly kists to Government, it has seemed just to allow any zamindar who may have granted tenures with a stipulation of the right to sell for arrears the opportunity of availing himself of this means of realizing his dues in the middle of the year, as well as at the close, instead of only at the end of the Bengal year, [1] as heretofore allowed by the Regulations in force; it has further been deemed equitable to extend this rule to all cases in which the right of sale may have been reserved, even though, in conformity with the Regulations heretofore in force, the stipulation for sale contained in the engagements interchanged may have restricted such sale to the case of a demand of rent remaining unpaid at the close of the Bengal year. [1]

* * * * [2]

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[1] *i.e.*, the month of Chaitra, which corresponds with the last part of March and the first part of April.

[2] The words "It has been likewise deemed advisable to explain and modify some of the existing rules for the collection of rents, with a view to render them more efficacious than at present, as well as to provide against sundry means of evasion now resorted to by defaulters, which were repealed by the Repealing and Amending Act, 1891 (XII of 1891), are omitted.

The following rules have accordingly been enacted by His Excellency the Most Noble, the Governor General in Council, to take effect from the date of their promulgation throughout the several districts of the Province of Bengal, including Midnapur

2. It is hereby declared that any leases or engagements for the fixing of rent now in existence that may have been granted or concluded for a term of years or in perpetuity by a proprietor under engagements with Government, or other person competent to grant the same, shall be deemed good and valid tenures, according to the terms of the covenants or engagements interchanged notwithstanding that the same may have been executed before the passing of Regulation 5, 1812,[1] and while the rule of section 2, Regulation 44, 1793,[2] which limited the period for which it was lawful to grant such engagements to ten years, and declared all that might be entered into for a longer term to be null and void, was in full force and effect, and notwithstanding that the stipulations of the said leases may be in violation of the rule in question

Leases fixing rent in perpetuity or for more than ten years, valid, though executed while section 2, Regulation 44, 1793, was in force

Provided, however, that nothing herein contained shall be held to exempt any tenures held under engagements from proprietors of estates paying revenue to Government from the liability to be cancelled on sale of the said estates for arrears of the said revenue, * * *[3] unless especially exempted from such liability by the rule in question, or by any other specific rule of the Regulations in force

3. *First* —The tenures known by the name of patni taluks, as described in the preamble to this Regulation, shall be deemed to be valid tenures in perpetuity, according to the terms of the engagements under which they are held They are heritable by their conditions, and it is hereby further declared that they are capable of being transferred by sale, gift or otherwise, at the discretion of the holder, as well as answerable for his personal debts, and subject to the process of the Courts of Judicature, in the same manner as other real property

Patni tenures declared valid transferable and answerable for debt

Second —Patni talukdars are hereby declared to possess the right of letting out the lands composing their taluks in any manner they may deem most conducive to their interest, and any engagements so entered into by such talukdars with others shall be legal and binding between the parties to the same, their heirs and assignees

Patnidars' right of under letting

Provided, however, that no such engagements shall operate to the prejudice of the right of the zamindar to hold the superior tenure answerable for any arrear of his rent, in the estate in which he granted it, and free of all incumbrance resulting from the act of his tenant

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[1] The Bengal Land revenue Sales Regulation, 1812 It is repealed in Assam, see Reg I of 1886, s. 2, *post*

[2] Ben Reg XLIV of 1793 was repealed by Act XXIX of 1871

[3] The words and figures " under the rule of section 5, Regulation XLIV of 1793," which were repealed by the Repealing Act, 1874, (XVI of 1874), are omitted

Patni tenure not voidable for arrears.

Third.—In case of an arrear occurring upon any tenure of the description alluded to in the first clause of this section, it shall not be liable to be cancelled for the same; * [1] but the tenure shall be brought to sale by public auction, and the holder of the tenure will be entitled to any excess in the proceeds of such sale beyond the amount of the arrear of rent due, subject, however, to the provisions contained in section 17 of this Regulation.

Inferior tenures under similar title-deeds confer similar interest to that provided for patni taluks in section 3.

4. If the holder of a patni taluk shall have underlet in such manner as to have conveyed a similar interest to that enjoyed by himself, as explained in the preamble to this Regulation, the holder of such a tenure shall be deemed to have acquired all the rights and immunities declared in the preceding section to attach to patni taluks, in so far as concerns the grantor of such under-tenure.

The same construction shall also hold in the case of patni taluks of the third or fourth decree.

Zamindar not to refuse to give effect to transfer;

5. The right of alienation having been declared to vest in the holder of a patni taluk, it shall not be competent to the zamindar or other superior to refuse to register, and otherwise to give effect to such alienations, by discharging the party transferring his interest from personal responsibility and, by accepting the engagements of the transferee.

but may demand fee

In conformity, however, with established usage, the zamindar or other superior shall be entitled to exact a fee upon every such alienation; and the rate of the said fee is hereby fixed at two *per cent* on the jama or annual rent of the interest transferred, until the same shall amount to one hundred rupees, which sum shall be the maximum of any fee to be exacted on this account.

and security.

The zamindar shall also be entitled to demand substantial security from the transferee or purchaser, to the amount of half the jama or yearly rent payable to him from the tenure transferred; the condition of furnishing such security on requisition being understood to be one of the original liabilities of the tenure.

The above rules shall apply equally to the case of a sale made in execution of a decree or judgment of Court, as to all other alienations, but it shall not apply to the case of sale for an arrear in the rent due to the zamindar or other superior, under the rules hereinafter contained.

The purchaser at such a sale shall be entitled to have his name registered and to obtain possession without fee, though of course liable to be called on to give security under the conditions of the tenure purchased.

Zamindar may refuse sanction to transfer till fee and security tendered.

6. It shall be competent to the zamindar or other superior to refuse the registry of any transfer until the fee above stipulated be paid, and until substantial security to the amount specified be tendered and accepted:

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[1] The words and figures "under the rule contained in the seventh clause of section 15 Regulation VII, 1799, for leases conveying a limited interest in the land," which were repealed, by the Repealing Act, 1874 (XVI of 1874), are omitted.

Provided, however, that if the security tendered by any purchaser or transferee should not be approved by the zamindar, and the party tendering it shall be dissatisfied with such rejection, he shall be competent to appeal therefrom by petition or common motion in the Civil Court of the district, which authority, if satisfied of the sufficiency of the security tendered, shall issue an injunction on the zamindar to accept it and give effect to the transfer without delay

It is hereby provided that the rules of this and of the preceding section shall not be held to apply to transfers of any fractional portion of a patni taluk, nor to any alienation other than of the entire interest, for no apportionment of the zamindar's reserved rent can be allowed to stand good unless made under his special sanction

7. In case of the sale of a patni tenure in execution of a judgment of Court, if the purchaser do not, within the period of one month from the sale, conform to the rules of section 5 of this Regulation, in order to obtain the transfer of his tenure by the superior to whom the rent fixed upon it is payable, the zamindar or other superior shall be entitled, of his own authority, to send a sazáwal to attach and hold possession of the tenure until the forms prescribed be observed **Upon public sale, if security not tendered within one month zamindar may attach.**

In case also of the sale of a patni tenure for arrears of the rent due upon it, under the rules of this Regulation, if security be required by the zamindar and the purchaser fail to furnish the same within one month of the date of sale, the zamindar shall similarly be entitled to send a sazáwal to attach and hold possession of the interest which may have passed on the sale, to the exclusion of the purchaser, until the prescribed security be given

Attachments made under this section shall be regarded as trusts for the benefit and at the risk of the purchasers; consequently, after deducting the rent due and the expense of attaching, any surplus that may be yielded by the collections shall be held in deposit for such purchaser; but, if the collections for the time fall short of the rent, the tenure and person of the proprietor shall be liable in the same manner as if no attachment had been made, and the accounts produced by the zamindar or other superior making the attachment shall be received as *primá facie* evidence to warrant process for an arrear so accruing **Attachments to have effect of trust**

[1] **8.** *First*.—Zamindars, that is, proprietors under direct engagements with the Government, shall be entitled to apply in the manner following for periodical sales of any tenures upon which the right of selling or bringing to sale for an arrear of rent may have been specially reserved by stipulation in the engagements interchanged on the creation of the tenure **Zamindars allowed sales of tenures in which right to sell for arrears is reserved**

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[1] As to the officer who should conduct sales of tenures of the nature of those described in clause *first* of section 8 of Ben Reg VIII of 1819, *see* the Bengal Patni Taluks Regulation, 1820 (I of 1820), s 2, *post* and the Bengal Rent Recovery (Under tenures) Act, 1865 (Ben Act VIII of 1865), s 3, *post*

As to the application of ss 9, 11, 13, 15 and 17 of Ben. Reg VIII of 1819 to such sales, *see* the Bengal Patni Taluks Regulation 1820 (I of 1820), s 2 (3), *post*

The exercise of this power shall not be confined to cases in which the stipulation for sale may have been unrestricted in regard to time, but shall apply equally to tenures held under engagements stipulating merely for a sale at the end of the year, in conformity with the practice heretofore allowed by the Regulations in force.

First sale to be applied for on first of Baisakh.

Second.—On the first day of Baisakh, [1], that is, at the commencement of the following year from that of which the rent is due, the zamindar shall present a petition * * * [2] to the Collector [3] containing a specification of any balances that may be due to him on account of the expired year, from all or any talukdars or other holders of an interest of the nature described in the preceding clause of this section.

The same shall then be stuck up in some conspicuous part of the cutcherry with a notice that, if the amount claimed be not paid before the first of Jeth[4] following, the tenures of the defaulters will on that day be sold by public sale in liquidation.

Should, however, the first of Jeth [4] fall on a Sunday or holiday, the next subsequent day, not a holiday, shall be selected instead; a similar notice shall be stuck up at the sadar cutcherry of the zamindar himself, and a copy or extract of such part of the notice as may apply to the individual case shall be by him sent to be similarly published at the cutcherry or at the principal town or village upon the land of the defaulter.

The zamindar shall be exclusively answerable for the observance of the forms above prescribed, and the notice required to be sent into the mufassal shall be served by a single peon, who shall bring back the receipt of the defaulter, or of his manager, for the same, or, in the event of inability to procure this, the signatures of three substantial persons residing in the neighbourhood, in attestation of the notice having been brought and published on the spot.

If it shall appear from the tenor of the receipt or attestation in question that the notice has been published at any time previous to the fifteenth of the month of Baisakh, [1] it shall be sufficient warrant for the sale to proceed upon the day appointed.

In case the people of the village should object or refuse to sign their names in attestation, the peon shall go to the cutcherry of the nearest munsif, or if there should be no munsif, to the nearest thana, and there make voluntary oath of the same having been duly published; certificate to which effect shall be signed and sealed by the said officers and delivered to the peon.

Mid-year sale to be applied for on first of Kartik.

Third.—On the first day of Kartik,[5] in the middle of the year, the zamindar shall be at liberty to present a similar petition, with a statement of any

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[1] The month of Baisakh corresponds with the last part of April and the first part of May.
[2] The words "to the Civil Court of the District, and a similar one," which were repealed by the Repealing Act, 1874 (XVI of 1874), are omitted.
[3] In Assam, the Deputy Commissioner.
[4] The month of Jeth corresponds with the last part of May and the first part of June.
[5] The month of Kartik corresponds with the last part of October and the first part of November.

balances that may be due on account of the rent of the current year, up to the end of the month of Assin,[1] and to cause similar publication to be made of a sale of the tenures of defaulters, to take place on the first of Aghan,[2] unless the whole of the advertised balance shall be paid before the date in question or so much of it as shall reduce the arrear, including any intermediate demand for the month of Kartik,[3] to less than one fourth or a four-anna proportion of the total demand of the zamindar, according to the kis bandi, calculated from the commencement of the year to the last day of Kartik[3]

[4] **9.** All sales of saleable tenures applied for under the rules of this Regulation shall be made in public cutcherry, * * *[5]the land shall be sold to the highest bidder and every one not the actual defaulter, shall be free to bid not excepting the person in satisfaction of whose demand the sale may be made, nor the under tenants of the defaulter, fifteen *per cent* of the purchase money shall be paid immediately the lot is knocked down and the officer conducting the sale shall be competent to refuse to accept a bid or to knock down a lot to any bidder, unless he has assurance to his satisfaction that the amount required to be deposited is in hand for the purpose or will be produced within two hours Sales how conducted

If the fifteen *per cent* be not paid in cash, or in[6] [currency notes] within two hours of the sale, or an equivalent amount in Government securities be not lodged, the lot shall be re sold on the same day, and, if the remainder of the purchase money be not paid by noon of the eighth day, notice shall be given of re sale on the following day, that is, on the ninth from the first sale, by proclaiming the same by beat of drum through the bazar of the sadar station of the zila, after which the lot shall be re sold at the appointed time at the risk of the first purchaser, who shall forfeit the advance of fifteen *per cent* already made,* * [7]and be further answerable for any sum in which the proceeds of the second sale may fall short of the antecedent one, such deficiency to be levied by the process for the execution of decrees of the Civil Courts

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[1] The month of Assin corresponds with the last part of September and the first part of October

[2] The month of Aghan corresponds with the last part of November and the first part of December

[3] The month of Kartik corresponds with the last part of October and the first part of November

Forms to be observed in selling.

10. At the time of the sale the notice previously stuck up in the cutcherry shall be taken down, and the lots be called up successively in the order in which they may be found in that notice.

A person shall attend on the part of the zamindar, with a particular statement of the payments made up to the day of sale, on account of the balance of each advertised lot, together with the receipt for, or certificate of, the notice directed to be published in the mufassal, nor shall any lot be put up to sale until the statement produced shall have been inspected, and the existence of a balance for the year ascertained therefrom, nor until the receipt for the notice shall have been read; the observance of which forms shall be recorded in a separate rubakari to be held upon each lot sold.

If the sale be of the description provided for in the third clause of section 8 of this Regulation, the kistbandi of the defaulter shall likewise be produced, in order that it may be seen that the balance remaining unpaid exceeds a four-anna proportion of the demand up to the date of sale; nor shall the sale take place unless this be ascertained.

The zamindar shall be exclusively responsible for the correctness and authenticity of the papers to be thus exhibited, nor shall the public officer making the sale be answerable in any respect except for its fairness and publicity, and for the observance of the rules prescribed for his guidance in this Regulation.

Tenure to be sold free of incumbrance by act of defaulter.

[1]**11.** *First.*—It is hereby declared that any taluk or saleable tenure that may be disposed of at a public sale, under the rules of this Regulation, for arrears of rent due on account of it, is sold free of all incumbrances that may have accrued upon it by act of the defaulting proprietor, his representatives or assignees, unless the right of making such incumbrances shall have been expressly vested in the holder by a stipulation to that effect in the written engagements under which the said taluk may have been held.

No transfer by sale, gift or otherwise, no mortgage or other limited assignment, shall be permitted to bar the indefeasible right of the zamindar to hold the tenure of his creation answerable, in the state in which he created it for the rent, which is in fact his reserved property in the tenure, except the transfer or assignment should have been made with a condition to that effect, under express authority obtained from such zamindar.

No under-lease to stand after sale.

Second.—In like manner, on sale of a taluk for arrears all leases originating with the holder of the former tenure, if creative of a middle interest between the resident cultivators and the late proprietor, must be considered to be cancelled, except the authority to grant them should have been specially transferred: the possessors of such interest must consequently lose the right to hold possession of the land and to collect the rents of the raiyats; this having been enjoyed merely in consequence of the defaulter's assignment

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[1] As to the extension of the application of s. 11, *see* the Bengal Patni Taluks Regulation, 1820 (I of 1820), s. 2 (3), *post*.

of a certain portion of his own interest, the whole of which was liable for the rent

Third —Provided, nevertheless, that nothing herein contained shall be construed to entitle the purchaser of a taluk or other saleable tenure intermediate between the zamindar and actual cultivators to eject a khudkast raiyat or resident and hereditary cultivator, not to cancel *bonâ fide* engagements made with such tenants by the late incumbent or his representative, except it be proved in regular suit, to be brought by such purchaser, for the adjustment of his rent, that a higher rate would have been demandable at the time such engagements were contracted by his predecessor

Exception in favour of *bonâ fide* engagements with raiyats

12. The rules of the preceding section, being declaratory of the principle to be observed on all occasions wherein saleable tenures are made responsible for the zamindar's reserved rent, will equally apply to the case of taluks, heretofore sold, as to those that may be sold henceforward, if the sale shall have been fair, and the process observed in conducting it shall have been that recognised and in use in the district at the time of selling

Above rule to take effect retrospectively

Nothing, however, herein contained shall operate to the prejudice of any agreement, express or implied, now subsisting between the purchaser of a taluk and the lessees of his predecessor

Proviso

Neither shall the rule for the fall of under-tenures be considered to apply to any private transfer by a talukdar of his own interest, nor to a public sale in execution of a decree, nor to the case of a relinquishment by the talukdar in favour of the zamindar, nor to any act originating with the former holder, other than default as aforesaid all such operations involve only a transfer of the tenure in the state in which it may be held at the time, and the new incumbent succeeds to no more than the reserved rights of the former tenant, such as they may be, and is of course subject to any restriction put upon the tenure by his act

Rule not to apply to private transfers.

[1]**13.** *First* —With reference to the injury that may be brought upon the holder of a taluk of the second degree by the operation of the preceding rules, in case the proprietor or the superior tenure purposely withholds the rent due from himself to the zamindar after having realized his own dues from the inferior tenantry, it is deemed necessary to allow such talukdars the means of saving their tenures from the ruin that must attend such a sale, and the following rules have accordingly been enacted for this purpose

Reason for allowing under tenants means of staying sale.

Second —Whenever the tenure of a talukdar of the first degree may be advertised for sale in the manner required by the second and third clauses of section 8 of this Regulation, for arrears of rent due to the zamindar, the talukdars of the second degree, or any number of them, shall be entitled to stay the final sale, by paying into Court the amount of balance that may be declared due by the person attending on the part of the zamindar on the day

How under tenants may stay sale

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1 [illegible]

[illegible] 35) *post* and [illegible] 62, *post*

appointed for sale; in like manner they shall be entitled to lodge money antecedently, for the purpose of eventually answering any demand that may remain due on the day fixed for the sale, and, should the amount lodged be sufficient, the sale shall not proceed, but, after making good to the zamindar the amount of his demand, any excess shall be paid back to the person or persons who may have lodged it.

Procedure in case of amount lodged being rent due from under-tenant;

Third.—If the amount so lodged shall be rent due by the inferior talukdar, the holder of the advertised tenure, the same shall be stated at the time of making the deposit, and the amount shall be carried to the account of the tenant or tenants lodging it, and be deducted from any claim of rent that may at the time be pending, or be thereafter brought forward against him or them by the proprietor of the advertised tenure, on account of the year or months for which the notice of sale may have been published.

and in case of amount lodged being advance from private funds.

Fourth.—If the person or persons making such a deposit, in order to stay the sale of the superior tenure, shall have already paid the whole of the rent due from himself or themselves, so that the amount lodged is an advance from private funds, and not a disbursement on account of the said rent, such deposit shall not be carried to credit in, or set against, future demands for rent, but shall be considered as a loan made to the proprietor of the tenure preserved from sale by such means, and the taluk so preserved shall be the security to the person or persons making the advance, who shall be considered to have a lien thereupon, in the same manner as if the loan had been made upon mortgage; and he or they shall be entitled, on applying for the same to obtain immediate possession of the tenure of the defaulter, in order to recover the amount so advanced from any profits belonging thereto.

If the defaulter shall desire to recover his tenure from the hands of the person or persons who, by making the advance, may have acquired such an interest therein, and entered on possession in consequence, he shall not be entitled to do so, except upon repayment of the entire sum advanced, with interest at the rate of twelve *per cent per annum* up to the date of possession having been given as above, or upon exhibiting proof, in a regular suit to be instituted for the purpose, that the full amount so advanced, with interest, has been realized from the usufruct of the tenure.

Sale not to be stayed unless arrear claimed be lodged.

14. *First.*—Should the balance claimed by a zamindar on account of the rent of any under-tenure remain unpaid upon the day fixed for the sale of the tenure, the sale shall be made without reserve, in the manner provided for in sections 9 and 10 of this Regulation; nor shall it be stayed or postponed on any account, unless the amount of the demand be lodged.

But suit to lie for its reversal.

It shall, however, be competent to any party desirous of contesting the right of the zamindar to make the sale, whether on the ground of there having been no balance due, or on any other ground, to sue the zamindar for the reversal of the same, and, upon establishing a sufficient plea, to obtain a decree with full costs and damages.

The purchaser shall be made [illegible] party in such suits, and, upon decree passing for reversal of the sale, the Court shall be careful to indemnify him against all loss, at the charge of the zamindar or person at whose suit the sale may have been made.

Second.—In cases also in which a talukdar may contest the zamindar's demand of any arrear, as specified in the notice advertised, such talukdar shall be competent to apply for [illegible] summary investigation at any time within the period of notice, the zamindar shall then be called upon to furnish his kabuliyat and other proofs at the shortest convenient notice, in order that the award may, if possible, be made before the day appointed for sale **Defaulter may apply for summary investigation.**

Such award, if so made, will of course regulate the ulterior process, but, if the case be still pending, the lot shall be called up in its turn, notwithstanding the suit, and, if the zamindar or his agent in attendance insist on the demand, the sale shall be made on his responsibility, nor shall it be stayed, *or the summary suit be allowed to proceed, unless the amount claimed be* lodged in cash, or in Government securities, or in [1][currency notes], by the talukdar contesting the demand, and if such deposit be not made, the alleged defaulter will have no remedy but by a regular action for damages and for a reversal of the sale **Sale not to be stayed unless amount claimed be deposited.**

[2]**15.** *First*.—So soon as the entire amount of the purchase money shall have been paid in by the purchaser at any sale made under this Regulation, such purchaser shall receive from the officers conducting the sale [illegible] certificate of such payment **Delivery of possession to purchaser**

The purchaser shall then proceed with the certificate in question to procure a transfer to his name in the cutcherry of the zamindar, and upon furnishing security, if required, to the extent of half the jama or annual rent, he shall receive the usual "amaldustuk" or order for possession, together with the notice to the raiyats and others to attend and pay their rents henceforward to him

The zamindar shall also be bound to furnish access to any papers connected with the tenure purchased that may be forthcoming in his cutcherry, and should he in any manner delay the transfer in his office, or refuse to give the orders for possession, notwithstanding that good and substantial security shall have been furnished or tendered on requisition, the new purchaser shall be entitled to apply direct to the Court,[3] and he shall receive the orders for possession, and shall be put in possession, of the lands by means of the nazir, in the same manner as possession [illegible] obtained under a decree of Court [illegible]

Provided, however, that, if the delay be on account of the zamindar's contesting the sufficiency of the security tendered, the rule contained in section [illegible] of this Regulation shall be observed

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[illegible]

Procedure in case of opposition to purchaser.

Second.—When the new purchaser shall proceed to take possession of the lands of his purchase, if the late incumbent himself, or the holders of tenures or assignments derived from the late incumbent, and intermediate between him and the actual cultivators, shall attempt to offer opposition, or to interfere with the collections of the new purchaser, from the lands composing his purchase, the latter shall be at liberty to apply immediately to the Civil Court[1] for the aid of the public officers in obtaining possession of his just rights.

A proclamation shall then issue under the seal of the Court and signature of the Judge[1] declaring that the new incumbent having, by purchase at a sale for arrears of rent due to the zamindar, acquired the entire rights and privileges attaching to the tenure of the late talukdar, in the state in which it was originally derived by him from the zamindar, he alone will be recognized as entitled to make the zamindari collections in the mufassal, and no payments made to any other individual will on any account be credited to the raiyats or others in any * * [2]suit for rent * * * [3]or on any other occasion whatever, when the same may be pleaded.

Procedure in case of continued opposition.

Third.—Should the late incumbent or his late under-tenants continue to oppose the entry of the new purchaser, notwithstanding the issuing of such a proclamation, or should there be reason to apprehend a breach of the peace on the part of any one, the aid of the police-officers and of all other public officers who may be at hand and capable of affording assistance shall be given to the new purchaser, on his presenting a written application for the same; and in the event of any affray or breach of the peace occurring, the entire responsibility shall rest with the party opposing the lawful attempt of the purchaser to assume his rights.

16. [*Sale of Under-tenures for arrears.*] *Rep. by the Bengal Rent Recovery* (*Under-tenures*) *Act*, 1865 (*Ben. Act* 8 *of* 1865).

Disposal of proceeds of sales. Deduction on account of Government.

[4]**17.** *First.*—The following rules have been enacted for the disposal of the proceeds of any sale made under the present rules of this Regulation.

Second.—One *per cent* shall first be deducted from the net proceeds realized, and shall be carried to the account of Government, for the purpose of meeting the expenses of any extra establishments which it may be necessary to maintain for carrying into effect the provisions of this Regulation.

Payment to zamindars.

Third.—The balance on account of which the sale may have been made shall next be made good in full (with interest and all charges incurred in bringing the taluk to sale) to the zamindar or other person to whom the same may be due:

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[1] As to the substitution of the Collector for the Court, *see* the Bengal Rent Recovery (Under-tenures) Act, 1865 (Ben. Act VIII of 1865), s. 3, *post.*

[2] The word "summary" which was repealed by the Repealing Act, 1874 (XVI of 1874), is omitted.

[3] The words and figures "brought under the provisions of section 15, Regulation VII, 1799, or in any application to stay process by distraint, under the rules of Regulation V, 1812," which were repealed by the Repealing Act, 1874 (XVI of 1874), are omitted.

[4] As to the extension of the application of s. 17, *see* the Bengal Patni Taluk Regulation, 1820 (I of 1820), s. 2 (3), *post.*

Provided, however, that no former balances, beyond those of the current year (or of that immediately expired, if the sale be at the commencement of the following year), shall be included in the demand to be thus satisfied. Such antecedent balances, if the zamindar shall have omitted to avail himself of the process within his reach for having them satisfied at the time, will have become in fact mere personal debts of the individual talukdar, and must be recovered in the same way as other debts by a regular suit in the Court.

Fourth.—Any excess that may remain after satisfying the demand of the zamindar, in the manner above described, shall be forthwith sent by the officer conducting the sale to the treasury of the Collector[1] or Assistant Collector of the district, to be there held in deposit to answer the claims of the talukdars of the second degree, or of others who, by assignment of the defaulter, may be at the time in possession of a valuable interest on the land composing the taluk sold or on any part of it. Disposal of remainder.

Fifth.—It shall be competent to any one conceiving himself to possess such an interest to bring forward his claim to the price he may have paid for the same, or for a just compensation for the loss sustained by him in consequence of the sale, by instituting a regular suit at any time within two months from the date of sale. Under-tenants free to prosecute for price of their interest or compensation.

If the Court shall, on investigation, consider the plaintiff's claim to be an equitable one, the Court will award to the claimant either the price he may have originally paid, or the value of the interest at the time of sale, or any other amount that may be deemed just and equitable under all the circumstances.

If there be more claimants than one, payment shall not be made from the deposit until the whole of the claims be settled, and, in case the value assessed upon the whole should exceed the amount in deposit, such amount shall be divided proportionately, and the remainder stand as a personal debt against the defaulter, to be realized from him by the usual process for the execution of decrees.

Sixth.—Provided, however, that no talukdar of the second degree or other possessor of an assigned interest upon the land of the tenure sold who may be holding under a stipulation for the payment of an annual amount in the way of rent, shall be entitled to recover compensation for the loss of such tenure or assignment upon its becoming cancelled by sale of the superior taluk, except after exhibiting proof that the whole amount of the rent demandable from himself has been paid or lodged for the purpose prior to the date of sale. Suit not to lie if under-tenant be himself in arrear at time of sale.

Seventh.—Should no claims upon the purchase-money of a taluk sold as above be brought forward by any under-tenants or assignees within the period of two months from the date of sale, or should the amount claimed by those who may have sued not equal the entire deposit, the defaulter whose tenure may have been sold shall be at liberty to petition the Court for the amount so held in deposit, or for the excess thereof, as the case may be, and he shall When defaulter to receive excess unclaimed.

[1] In Assam, the Deputy Commissioner.

receive a certificate under the seal of the Court, of there being no claims to afford ground of detention for the whole or any part of the deposit; and, upon exhibiting such certificate to the Collector,[1] the amount set free thereby shall be paid to his receipt.

In the same manner, upon executing a decree passed in favour of any under-tenants or assignees, they shall receive certificates under the seal of the Court, declaring the amount adjudged to them out of the deposit; and upon exhibiting these certificates the amount shall be paid severally to their receipts by the Collector.[1]

Substitution of Government securities for cash in deposit.

Eighth.—It shall be competent to any party interested in a deposit to withdraw the whole or any part thereof on substituting Government securities, bearing interest, in lieu of the money so held in deposit; such securities to be taken at the rate of discount or premium of the day * * *[2]

18-19. [*Rules regarding attachment of land of defaulter; summary process against person of defaulter.*] *Rep. by the Bengal Rent Act, 1859 (Act 10 of 1859).*

BENGAL REGULATION 1 OF 1820.

(THE BENGAL PATNI TALUKS REGULATION, 1820.[3])

[*11th January, 1820.*]

A Regulation for providing that all sales of certain taluks made answerable by sale for arrears of the zamindar's rent shall be conducted in the mode prescribed by Regulation 8, 1819,[4] for the sales therein described.

Preamble.

1. WHEREAS it has been omitted to provide in the rules of Regulation 8, 1819,[4] whether, in case the proprietor of an estate paying revenue to Government should desire to bring to sale a saleable tenure of the nature defined in clause *first*, section 8 of that Regulation, for the realization of arrears of rent due thereupon, by any legal process other than that prescribed by the second and third clauses of the said section, such sale should be made in the public manner provided for the periodical sales therein described;

And whereas it is consonant with justice, and was intended by the said Regulation, that, in every case of the sale of such tenures for arrears of the zamindar's rent, the sale should be public, for the security of the interest of

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[1] In Assam, the Deputy Commissioner.
[2] The words "as shown by the Government Gazette last received," which were repealed by the Repealing and Amending Act, 1903 (I of 1903), are omitted.
[3] SHORT TITLE.—This short title was given by the Amending Act, 1897 (V of 1897), Sch. III —*see post.*
LOCAL EXTENT.—This Regulation is in force in the district of Sylhet—*see* the Assam Land-revenue Manual, 1906, Introduction, p. ix.
[4] The Bengal Patni Taluks Regulation, 1819, *ante*, p. 54.

the owner of the tenure sold, which object can in no manner be duly secured except the sales to be so made be conducted by an officer of Government in the same manner as the periodical sales provided for by section 8 of the said Regulation,

the following additional rule has accordingly been passed by the Governor General in Council, to take effect, from the date of its promulgation, within the several districts of Bengal, including Midnapur —

Rules of Reg 8, 1819, for periodical sales for zamindar's arrears of rent, extended to other sales for rent.

2. *First* —Whenever the proprietor of an estate paying revenue to Government shall desire to cause any tenure of the nature of those described in clause *first*, section 8, Regulation 8, 1819,[1] to be sold for arrears of rent due to him on account thereof, and shall, under any summary process authorized by [2][law], have acquired the right of causing such sale to be made, the same shall be conducted, after application from the zamindar, by the Registrar or acting Registrar of the Zila * * [3]Court, or, in his absence, by the person in charge of the office of Judge of the district,[4] in the mode prescribed by Regulation 8[1] above quoted for periodical sales

Notice by proclamation.

Second —Ten days' notice shall be given before proceeding to sale, by proclamation to be stuck up at the cutcherry of the Court and at that of the Collector[5] of the district

Rules extended to sales hereunder

Third —The rules of sections 9, 11, 13, 15 and 17, Regulation 8, 1819,[1] are extended to all sales made after the manner herein provided.

BENGAL REGULATION 7 OF 1823

[THE INDIAN CIVIL SERVICE (BENGAL) LOANS PROHIBITION REGULATION, 1823 [6]]

[30th October, 1823]

A Regulation for prohibiting loans by covenanted Civil Servants from persons subject to their official authority and influence

Preamble.

1. Whereas, by the existing Regulations,[*] all covenanted Civil Servants

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by 1903

(I of 1903), are omitted

[4] As to the substitution of "the Collector of Land revenue" for "the Judge," *see* the Bengal Rent Recovery (Under tenures) Act, 1865 (Ben Act VIII of 1865), s 3, in Vol II of this Code

[5] In Assam, the Deputy Commissioner

[6] SHORT TITLE —This short title was given by the Amending Act, 1897 (V of 1897), Sch. III—*see post*

der the Scheduled he North Lushai n is barred in the

1793 (XXXVIII of 1793), *ante*, p. 34.

of the Company, employed in the judicial and revenue departments of the service are prohibited from lending money, directly or indirectly, to any proprietor or farmer of land, dependent talukdar, under-farmer or raiyat, or their sureties ; and whereas it is equally necessary to prohibit the public officers from borrowing money from persons subject to their official authority and influence, the following rules have been enacted by the Governor General in Council, and are to be in force from the date of their promulgation throughout the Provinces immediately subject to this Presidency.

Civil Servants prohibited from borrowing money from Native officers under their authority, etc.;

2. *First.*—All covenanted Civil Servants, in whatever department of the public service they may be employed, are henceforward prohibited, under pain of dismissal from office, from borrowing money from, or in any way incurring debt to, any Native officer under their authority, or under the authority of any of their subordinate functionaries, or from or to the known surety, agent, relation, connection or dependant of any such Native officer, or from or to any person of whom such Native officer may be known to be or to have been the servant, agent, surety or dependant.

and from other persons officially accountable to them.

Second.—In like manner, and under the like penalty, all officers of Government, being covenanted Civil Servants, are henceforward prohibited from borrowing money from, or in any way incurring debt to, any manager, guardian, executor, amin, sazáwal, gumástha, farmer, mutawalli or other person, who may in any way be officially accountable to them, or from and to the known surety, agent, relation, connection or dependant of such person.

Third.—[*Rules applied to commercial officers.*] *Rep. by the Repealing Act, 1874 (16 of 1874).*

Certain officers prohibited from incurring debt to zamindars and others residing, or having property, within their districts.

3. [1][All Commissioners, District and Sessions Judges, Deputy Commissioners and Assistant Commissioners, being members of the Indian Civil Service], are prohibited, under pain of dismissal from office, from borrowing money from, or in any way incurring debt to, any zamindar, talukdar, raiyat or other person possessing real property, or residing in, or having a commercial establishment within, the city, district or division to which their authority may extend.

Penalty for lending money to Civil Servants.

4. All persons are prohibited from lending money, or otherwise becoming in any way creditor, to any officer of Government, being a covenanted Civil Servant, in contravention of the above rules ; and any person lending money, or in any way becoming creditor, to any such public officer in breach of this prohibition shall forfeit to Government a sum equal to the amount for which he shall have so illegally become creditor.

5. [*Report by officers in debt.*] *Rep. by the Repealing Act, 1874 (16 of 1874).*

Penalty for officers receiving new appointments,

6. * * [2]if any covenanted servant, who may be hereinafter appointed to any office, shall at the time of such appointment be indebted to any person

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[1] These words in square brackets were substituted for the original words by the Amending Act, 1897 (V of 1897), Sch. II—*see post.*

[2] The words "In like manner," which were repealed by the Repealing and Amending Act, 1903 (I of 1903), are omitted.

with whom it would be illegal for him to contract a loan, while holding such office, it shall be incumbent on such servant, before entering on the duties of the office, to make known the circumstance to the [1] [Local Government], and, failing to do so, he shall be subject to the same penalty as if the debt had been contracted subsequently to his being appointed to the said office

If indebted to individuals contrary to above rules omitting to report

7. [*Penalty on Natives knowingly taking office in contravention of above rules*] *Rep by the Repealing and Amending Act, 1903* (*1 of 1903*)

8. Suits for the recovery of penalties incurred under this Regulation shall and may be instituted under the special instructions of the [1] [Local Government], and shall be conducted by the Superintendent and Remembrancer of Legal Affairs, [2] or by such other officer as [3] [the Local Government] may nominate for that purpose

Suits for recovery of penalties

Such suits shall be instituted in the * * [4] Court of the Division within which the transaction may have taken place, or the lender may reside or may possess real or personal property

An appeal shall lie from judgments passed in such cases in like manner as from other judgments passed in original suits * * [5] and the judgments shall be enforced under the provisions * [6] for the execution of other decrees of the Civil Courts

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BENGAL REGULATION 6 OF 1825

(The Bengal Troops Transport Regulation, 1825 [7])

[*4th April, 1825*]

A Regulation for rendering more effectual the rules in force relative to supplies and preparations for troops proceeding through the British territories

1. Whereas it is enacted in the first clause of section 3, Regulation 11, 1806,[8] that, on receiving the notification mentioned in the preceding section

Preamble

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[1] The words Local Government" were substituted for the words Governor General in Council" by the Amending Act, 1897 (V of 1897) Sch II—*see post*

[2] See the Bengal Bihar and Orissa and Assam Laws Act, 1912 (VII of 1912) s 3 4 (*b*) and Schedule D, Part III, cl 24

[3] The words the Local Government were substituted for the word "Government" by the Amending Act 1897 (V of 1897) Sch II—*see post*

[4] The word ' Provincial which was repealed by the Repealing Act, 1874 (XVI of 1874), is omitted

[5] The words ' by the Provincial Courts ' which were repealed by the same Act are omitted

[6] The words ' of the Regulations ' which were repealed by the same Act, are omitted

[7] Short Title —This short title was given by the Amending Act, 1897 (V of 1897) Sch III—*see post*

Local Extent —This Regulation has been declared by notification under the Scheduled [illegible] Assam (except the North Lushai [illegible] of the Regulation is barred in the [illegible] D.

[8] The Bengal Troops Transport and Travellers Assistance Regulation 1806 It is printed *ante* p 41

relative to a body of troops about to proceed, by land or by water, through any part of the Company's territories, the Collector[1] of the district shall immediately issue the necessary orders to the landholders, farmers, tahsildars or other persons in charge of the lands through which the troops are to pass for providing the supplies required and for making any requisite preparation of boats or temporary bridges, or otherwise for enabling the troops to cross such rivers or nalas as may intersect their march without impediment or delay; it being at the same time further directed, in the second clause of the section referred to, that the supplies so furnished shall be paid for by the persons receiving the same at the current bazar prices of the place at which they may be provided, and that the expenses incurred for crossing the troops and their baggage over rivers or nalas, after being duly ascertained, will be paid by Government;

and whereas experience has shown the necessity of enabling the Collectors or other public officers acting in that capacity to enforce their orders in the cases above-mentioned, by imposing a fine upon any landholder, tahsildar or other person in the possession or management of land, who, after receiving the requisition issued in pursuance of the section above cited, may be proved to have wilfully disobeyed or neglected the same;

the Governor General in Council has therefore enacted the following rules, to be in force as soon as promulgated in all the Provinces immediately subject to the Presidency of Fort William.

Penalty for zamindars not providing supplies for troops, etc.

2. Any landholder, farmer, tahsildar or other person in the possession or management of land, who may have been duly required by a Collector [1] of the land-revenue (or any public officer acting in that capacity), in pursuance of section 3, Regulation 11, 1806,[2] to provide supplies for a body of troops about to proceed by land or water through any part of the British territories or to make preparations of boats, temporary bridges or otherwise, for enabling the troops to cross rivers or nalas intersecting their march, and after the receipt of such requisition shall wilfully disobey or neglect the same, or shall without sufficient cause fail to exert himself for the due execution of the duty so assigned to him, shall, on proof of such failure, neglect or disobedience to the satisfaction of the Collector [1] (or other officer acting in that capacity) by whom the order may have been issued, or of his successor in the same office, be liable to a fine proportionate to the defaulter's condition in life and the circumstances of the case, in such amount as the Collector [1] or other officer, with due regard to these considerations, may judge it proper to impose, so that the fine shall not in any case exceed the sum of one thousand * * [3] rupees.

Collector to make summary inquiry.

3. The Collector,[1] or other officer acting in that capacity, who may exercise the powers vested in him by this Regulation, shall previously make

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[1] In Assam, the Deputy Commissioner.

[2] The Bengal Troops Transport and Travellers' Assistance Regulation, 1806. It is printed, *ante*, p. 41.

[3] The word "*sicca*," which was repealed by the Repealing and Amending Act, 1903 (I of 1903), is omitted.

a summary inquiry, in the presence of the party charged with disobeying or neglecting the order issued to him, or of his representative, if, on being duly summoned, he shall attend in person or by vakil for that purpose

If he shall fail to attend, either in person or by vakil, the summary inquiry shall be conducted *ex parte,* and the Collector [1] shall record upon his proceedings the whole of the evidence obtained in proof of the neglect or disobedience for which a fine may be imposed

4. The Collector [1] or other officer who may adjudge a fine under this Regulation shall be competent to levy the amount by the same process as is authorized for the recovery of the arrears of the public revenue *Fine how levied.*

Provided that, if an appeal be preferred from his decision, within six weeks from the date of it, to the Board of Revenue,[2] * * * [3] and sufficient security be tendered for performing the judgment of the Board [2] upon the appeal, the Collector [1] shall stay the execution of his order for levying the fine imposed by him, until he shall receive the final order of the Board [2] *Proviso as to appeal*

5. Appeals from the orders of Collectors [1] or other public officers, adjudging fines under this Regulation, may be preferred * * * [4] either immediately to the * * [5] Board [2] or through the officer by whom the fine may have been adjudged, and, on admission of the appeal the whole of the proceedings in the case shall be transmitted to the Board [2] *Petition of appeal against fine*

But no such appeal shall be receivable after the expiration of six weeks from the date of the judgment, without proof of sufficient reason for the delay, to the satisfaction of the Board[2] * * * [6] *Limitation of appeal*

BENGAL REGULATION 11 OF 1825

(THE BENGAL ALLUVION AND DILUVION REGULATION, 1825 [7])

[*26th May, 1825*]

A Regulation for declaring the rules to be observed in determin-

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[1] [illegible]

[illegible] a and Assam Laws

[illegible] uch were repealed by

[illegible] he Revenue Boards"

[4] [illegible] which was repealed by the Repealing and Amending Act, 1903 (I of 1903), is omitted

[5] The words "by whom the case may be cognizable," which were repealed by the same Act, are omitted

[7] SHORT TITLE —This short title was given by the Amending Act, 1897 (V of 1897), Sch III —*see post*

LOCAL EXTENT —This Regulation has been declared by notification under the Scheduled Districts Act, 1874 (XIV of 1874), s 3, to be in force in Assam (except the North Lushai Hills)—*see* Appendix I, Table II The application of the Regulation is barred in the Lushai Hills, by notification—*see* Vol II, Appendix II, Table D

ing claims to lands gained by alluvion, or by dereliction of a river or the sea.

Preamble.

1. In consequence of the frequent changes which take place in the channel of the principal rivers that intersect the Provinces immediately subject to the Presidency of Fort William, and the *shifting of the sands which lie in the* beds of those rivers, chars or small islands are often thrown up by alluvion in the midst of the stream, or near one of the banks, and large portions of land are carried away by an encroachment of the river on one side, whilst accessions of land are at the same time, or in subsequent years, gained by dereliction of the water on the opposite side; similar instances of alluvion, encroachment and dereliction also sometimes occur on the sea-coast which borders the southern and south-eastern limits of Bengal.

The lands gained from the rivers or sea by the means above-mentioned are a frequent source of contention and affray, and although the law and custom of the country have established rules applicable to such cases, these rules not being generally known, the Courts of Justice have sometimes found it difficult to determine the rights of litigant parties claiming chars or other lands gained in the manner above described.

The Court of Sadar Diwáni Adálat, with a view to ascertain the legal provisions of the Muhammadan and Hindu laws on this subject, called for reports from their law officers of each persuasion, and on consideration of the reports furnished by the law officers in consequence, as well as of the decisions which have been passed by the Court of Sadar Diwáni Adálat in cases brought before them in appeal which involved the rights of claimants to lands gained by allüvion, or by dereliction of rivers or the sea, the Governor General in Council has deemed it proper to enact the following rules for the general information of individuals as well as for the guidance of the Courts of Judicature to be in force, as soon as promulgated, throughout the whole of the Provinces subject to the Presidency of Fort William :—

Claims and disputes as to alluvial lands to be decided by usage when clearly recognized and established.

2. Whenever any clear and definite usage of shikast paiwast respecting the disjunction and junction of land by the encroachment or recess of a river may have been immemorially established, for determining the rights of the proprietors of two or more contiguous estates divided by a river (such as that the main channel of the river dividing the estates shall be the constant boundary between them, whatever changes may take place in the course of the river, by encroachment on one side and accession on the other), the usage so established shall govern the decision of all claims and disputes relative to alluvial land between the parties whose estates may be liable to such usage.

Where no usage established, claims how decided.

3. Where there may be no local usage of the nature referred to in the preceding section, the general rules declared in the following section shall be applied to the determination of all claims and disputes relative to lands gained by alluvion or by dereliction either of a river or the sea.

Lands gained by gradual accession

4. *First.*—When land may be gained by gradual accession, whether from the recess of a river or of the sea, it shall be considered an increment to

the tenure of the person to whose land or estate it is thus annexed, whether such land or estate be held immediately from Government by a zamindar or other superior landholder, or as a subordinate tenure, by any description of under tenant whatever

from recess of river or sea

Provided that the increment of land thus obtained shall not entitle the person in possession of the estate or tenure to which the land may be annexed to a right of property or permanent interest therein beyond that possessed by him in the estate or tenure to which the land may be annexed, and shall not in any case be understood to exempt the holder of it from the payment to Government of any assessment for the public revenue to which it may be liable under the provisions of Regulation 2, 1819,[1] or of any other Regulation in force

Extent of interest in increment of person in possession

Nor, if annexed to a subordinate tenure held under a superior landholder, shall the under-tenant, whether a khudkast raiyat, holding a maurusi istimrári tenure at a fixed rate of rent per bigha, or any other description of under-tenant liable by his engagements, or by established usage, to an increase of rent for the land annexed to his tenure by alluvion, be considered exempt from the payment of any increase of rent to which he may be justly liable

Second—The above rule shall not be considered applicable to cases in which a river, by a sudden change of its course, may break through and intersect an estate, without any gradual encroachment or may by the violence of stream separate a considerable piece of land from one estate and join it to *another estate without destroying the identity and preventing the recognition* of the land so removed

When river by sudden change of course intersects estate

In such cases the land, on being clearly recognized, shall remain the property of its original owner

Third—When a char or island may be thrown up in a large navigable *river (the bed of which is not the property of an individual), or in the sea,* and the channel of the river or sea between such island and the shore may not be fordable, it shall, according to established usage, be at the disposal of Government

Chars thrown up in navigable river

But if the channel between such island and the shore be fordable at any season of the year, it shall be considered an accession to the land tenure or tenures of the person or persons whose estate or estates may be most contiguous to it, subject to the several provisions specified in the first clause of this section with respect to increment of land by gradual accession

Property therein when channel fordable

Fourth—In small and shallow rivers, the beds of which, with the jalkar right of fishery, may have been heretofore recognized as the property of individuals, any sand bank or char that may be thrown up shall, as hitherto, belong to the proprietor of the bed of the river, subject to the provisions stated in the first clause of the present section

Chars etc, thrown up in small shallow rivers

[1] The Bengal Land revenue Assessment (Resumed Lands) Regulation, 1819 It is not in force in Assam

Disputes relative to lands gained by alluvion or by dereliction not provided for by Regulation.

Fifth.—In all other cases, namely, in all cases of claims and disputes respecting land gained by alluvion or by dereliction of a river or the sea, which are not specifically provided for by the rules contained in this Regulation the Courts of Justice, in deciding upon such claims and disputes, shall be guided by the best evidence they may be able to obtain of established local usage, if there be any applicable to the case, or, if not, by general principles of equity and justice.

Encroachments on bed of navigable rivers and other obstructions.

5. Nothing in this Regulation shall be construed to justify any encroachments by individuals on the beds or channels of navigable rivers, or to prevent Zila * * [1] Magistrates or any other officers of Government who may be duly empowered for that purpose from removing obstacles which appear to interfere with the safe and customary navigation of such rivers, or which shall in any respects obstruct the passage of boats by tracking on the banks of such rivers, or otherwise.

BENGAL REGULATION 3 OF 1827.

(The Bengal Corruption and Extortion Regulation, 1827.[2])

[*1st November, 1827.*]

A Regulation for modifying and amending the rules in force relative to the law officers and ministerial Native officers of the Courts of Judicature, who may be guilty of corruption or extortion.

1-4. [*Preamble; amendments; no fine to be awarded in Civil Court for corruption or extortion; criminal prosecution not to depend on civil action.*] *Rep. by the Repealing Act, 1874 (16 of 1874).*

Record of criminal conviction sufficient for compelling refund of property corruptly taken or extorted.

5. From and after the date of this Regulation, it shall not be necessary for any party from whom money or property may have been corruptly taken or extorted to institute a civil action for the recovery thereof; but, on proof of the charge in a criminal prosecution for those offences, a certified copy of the conviction by [3] [the Court] shall be received as sufficient authority for enforcing the refund of the amount or value so taken, with interest, on application to that effect being preferred by the aggrieved party to the Civil Court

* * * * [4].

6. [*Amount of embezzlement to be paid in first instance from public treasury.*] *Rep. by the Repealing Act, 1874 (16 of 1874).*

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[1] The words "and City," which were repealed by the Repealing and Amending Act, 1903 (I of 1903), are omitted.

[2] Short Title.—This short title was given by the Amending Act, 1897 (V of 1897), Sch. III—*see post*.

Local Extent.—This Regulation (s. 5) has been declared, by notification under the Scheduled Districts Act, 1874 (XIV of 1874), s. 3, to be in force in the Scheduled District of Sylhet—*see* Vol. II, Appendix I, Table B.

[3] These words "the Court" were substituted for the words "a Court of Circuit, or the Nizamat Adálat" by the Repealing and Amending Act, 1903 (I of 1903), Sch. II—*see post*.

[4] The words "on the stamped paper prescribed for miscellaneous petitions," which were repealed by the Repealing Act, 1876 (XII of 1876), are omitted.

BENGAL REGULATION 5 OF 1827.

(THE BENGAL ATTACHED ESTATES MANAGEMENT REGULATION, 1827 [1])

[27th December, 1827.]

A Regulation for modifying the rules at present in force for the management of estates under attachment by orders of the Courts of Justice in certain cases.

1. WHEREAS it is expedient in all cases of the attachment of landed property under orders of the Courts of Justice that the management of the estate attached should be placed under the superintendence of the Collectors of land-revenue, the following rules have been enacted by the Governor General in Council, to be in force, from the date of their promulgation, throughout the territories immediately subject to the Presidency of Fort William. Preamble

2. The rules contained in sections 5 and 6, Regulation 5, 1799,[2] * * *[3] regarding the administration and management of estates under orders of the Zila * * [4] Courts, are hereby declared subject to the following modifications. Modification of Regulations regarding management of estates under attachment

3. Whenever the Zila * * [4] Courts may deem it just and proper, under the provisions of the [5][Regulation] above mentioned, to provide for the administration or management of landed property, the Court shall issue a precept to the Collector [6] of land-revenue of the district wherein the estate may be situated, directing him to hold the estate in attachment, and to appoint a person for the due care and management of the estate, under good and adequate security for the faithful discharge of the trust, in a sum proportionate to the extent thereof. Issue of precept for holding estates under attachment and for appointing managers

Provided, however, that if any person holding an interest in the estate shall be dissatisfied with the selection made by the Collector [6] of the indivi-

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[1] SHORT TITLE.—This short title was given by the Amending Act, 1897 (V of 1897), Sch. III—*see post*.

LOCAL EXTENT.—This Regulation has been declared, by notification under the Scheduled Districts Act, 1874 (XIV of 1874), s. 3, to be in force in the following Scheduled Districts, namely:—

the Districts of Cachar (excluding the North Cachar Hills), Darrang, Goálpara (excluding the Eastern Duars), Kámrup, Lakhimpur, Nowgong, Sibsagar (including the tract transferred from the Nága Hills in 1901) and Sylhet—*see* Vol. II, Appendix I, Table B.

[illegible] id "and [illegible] 1813", [illegible] epealing [illegible] of 1874) are omitted.

[5] This word "Regulation" in s. [illegible] was substituted for the words "several Regulations" by the Repealing and Amending Act, 1903 (I of 1903), Sch. II—*see post*.

[6] In Assam, the Deputy Commissioner.

dual to perform the duty in question, or with the conduct of the manager at any time after his appointment, it shall be competent to such person to represent his objections to the Board of Revenue,[1] and the Board will either confirm the manager chosen, or order the Collector [2] to appoint another person, as on consideration of the circumstances of the case may appear reasonable and proper.

Precept to state property included in attachments.

4. The precept of the Zila * *[3] Court above-mentioned shall state specifically the property to be included in the attachment, and the attachment shall not be withdrawn without a further precept from the Court to that effect.

BENGAL REGULATION 17 OF 1829.

(THE BENGAL SATI REGULATION, 1829.[4])

[*4th December, 1829.*]

A Regulation for declaring the practice of sati or of burning or burying alive the widows of Hindus illegal and punishable by the Criminal Courts.

Preamble.

1. The practice of sati or of burning or burying alive the widows of Hindus is revolting to the feelings of human nature; it is nowhere enjoined by the religion of the Hindus as an imperative duty; on the contrary, a life of purity and retirement on the part of the widow is more especially and preferably inculcated, and by a vast majority of that people throughout India the practice is not kept up nor observed: in some extensive districts it does not exist; in those in which it has been most frequent it is notorious that in many instances acts of atrocity have been perpetrated which have been shocking to the Hindus themselves and in their eyes unlawful and wicked.

The measures hitherto adopted to discourage and prevent such acts have failed of success, and the Governor General in Council is deeply impressed with the conviction that the abuses in question cannot be effectually put an end to without abolishing the practice altogether.

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[1] In Assam, the Chief Commissioner—*see* the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (VII of 1912), s. 3, and Sch. D, Pt. III, *post.*

[2] In Assam, the Deputy Commissioner.

[3] The words "or City," which were repealed by the Repealing Act, 1874 (XVI of 1874), are omitted.

[4] SHORT TITLE.—This short title was given by the Amending Act, 1897 (V of 1897), Sch. III—*see post.*

LOCAL EXTENT.—This Regulation has been declared, by notification under the Scheduled Districts Act, 1874 (XIV of 1874), s. 3, to be in force in Assam (except the North Lushai Hills)—*see* Vol. II, Appendix I, Table B. The application of the Regulation is barred in the Lushai Hills, by notification—*see* Vol. II, Appendix II, Table D.

Actuated by these considerations, the Governor General in Council, without intending to depart from one of the first and most important principles of the system of British Government in India, that all classes of the people be secure in the observance of their religious usages, so long as that system can be adhered to without violation of the paramount dictates of justice and humanity, has deemed it right to establish the following rules, which are hereby enacted to be in force from the time of their promulgation throughout the territories immediately subject to the Presidency of Fort William

2. The practice of sati or burning or burying alive the widows of Hindus is hereby declared illegal and punishable by the Criminal Courts

Sati declared illegal and punishable

3. *First* —All zamindars, talukdars or other proprietors of land, whether malguzari or lákhiraj, all sadar farmers and under renters of land of every description, all dependent talukdars, all naibs and other local agents, all Native officers employed in the collection of the revenue and rents of lands on the part of Government or the Court of Wards, and all mandals or other headmen of villages, are hereby declared especially accountable for the immediate communication to the officers of the nearest police-station of any intended sacrifice of the nature described in the foregoing section, and any zamindar or other description of persons above noticed, to whom such responsibility is declared to attach, who may be convicted of wilfully neglecting or delaying to furnish the information above required, shall be liable to be fined by the Magistrate or Joint-Magistrate in any sum not exceeding two hundred rupees, and in default of payment to be confined for any period of imprisonment not exceeding six months

Zamindars, etc, responsible for immediate communication to police of intended sacrifice

Penalty in case of neglect

Second —Immediately on receiving intelligence that the sacrifice declared illegal by this Regulation is likely to occur, the police daroga shall either repair in person to the spot, or depute his muhurar or jamadar, accompanied by one or more barkandazes of the Hindu religion, and it shall be the duty of the police-officer to announce to the persons assembled for the performance of the ceremony that it is illegal, and to endeavour to prevail on them to disperse, explaining to them that, in the event of their persisting in it they will involve themselves in a crime and become subject to punishment by the Criminal Courts

Police how to act on receiving intelligence of intended sacrifice,

Should the parties assembled proceed in defiance of these remonstrances to carry the ceremony into effect, it shall be the duty of the police-officers to use all lawful means in their power to prevent the sacrifice from taking place, and to apprehend the principal persons aiding and abetting in the performance of it, and in the event of the police-officers being unable to apprehend them, they shall endeavour to ascertain their names and places of abode, and shall immediately communicate the whole of the particulars to the Magistrate or Joint-Magistrate for his orders

Third —Should intelligence of a sacrifice declared illegal by the Regulation not reach the police-officers until after it shall have actually taken place,

How to act when intelligence of

sacrifice does not reach them until after it has taken place.

or should the sacrifice have been carried into effect before their arrival at the spot, they will nevertheless institute a full inquiry into the circumstances of the case, in like manner as on all other occasions of unnatural death, and report them for the information and orders of the Magistrate or Joint-Magistrate to whom they may be subordinate.

4, 5. *[Trial of persons concerned in the sacrifice; sentence of death by Court of Nizamat Adálat.] Rep. by Act 17 of 1862.*

PART II.—LOCAL ACTS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL IN FORCE IN ASSAM.

ACT 25 OF 1850.

(THE FORFEITED DEPOSITS ACT, 1850.[1])

[*14th June, 1850.*]

An Act for the forfeiture to Government of deposits made on incomplete sales of land under Regulation 8, 1819,[2] * * *[3]

Preamble.

WHEREAS patnidars * * *[4] fraudulently avail themselves of the provision[5] in section 9, Regulation 8, 1819[2] of the Bengal Code, * * * *[6] that forfeited deposits at sales of land * * *[7] for arrears of rent shall be applied as if they were purchase-money; It is enacted as follows:—

1. [*Repeals.*] *Rep. by the Repealing Act, 1870 (14 of 1870).*

Application of forfeited deposits.

2. Any such forfeited deposit shall be applied to defray the expenses of the sale, and the surplus shall be forfeited to Government.

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[1] SHORT TITLE.—This short title was given by the Amending Act, 1897 (V of 1897), Sch. III—*see post.*

LOCAL EXTENT.—The Act is in force in the district of Sylhet—*see* the Assam Land-revenue Manual, 1906, Introduction, p. xi.

[2] The Bengal Patni Taluks Regulation, 1819. It is printed *ante*, p. 52.

[3] The words and figures "and Act IV, 1846," in the title, which were repealed by the Repealing and Amending Act, 1891 (XII of 1891), are omitted.

[4] The words "and judgment-debtors," in the preamble, which were repealed by the same Act, are omitted.

[5] The provision here referred to was repealed by s. 1 of the present Act.

[6] The words and figures "and in section 5, Act IV, 1846," which were repealed by the Repealing and Amending Act, 1891 (XII of 1891), are omitted.

[7] The words "in execution of decrees or", which were repealed by the same Act, are omitted.

ACT 6 OF 1853

(THE RENT RECOVERY ACT, 1853 [1])

[*15th April, 1853*]

An Act relating to summary suits for arrears of rent, to sales of patni taluks and other saleable tenures, and to sales of land in satisfaction of summary decrees for rent.

Preamble

[*WHEREAS, by Regulation 8, 1831,* [2] *of the Bengal Code, the hearing and decision of summary suits or claims relating to arrears or exactions of rents were transferred from the Judges of the Zila or City Courts to the Collectors of land-revenue of the several districts*;]

And whereas, by Regulation 7, 1832,[3] of the Bengal Code, the conduct of sales of patni taluks and other saleable tenures under Regulations 8, 1819,[4] and 1, 1820,[5] of the same Code, and the performance of other acts preparatory to, or connected with, such sales, were transferred to the Collector or Deputy Collector of land-revenue or head assistant to the Collector or Deputy Collector, subject to an appeal as therein provided;

[*And whereas, by Act 8, 1835,*[6] *the power theretofore vested in the Judge of the Diwáni Adálat of selling land in satisfaction of summary decrees for rent was transferred to the Collectors of land-revenue, and it was enacted that all sales for the recovery of arrears of rent held under clause 7, section 15, Regulation 7, 1799,*[6] *should be conducted by the Collector, his Deputy or duly authorized Assistant, and that ten days' notice should be given of such sales by advertisement to be stuck up at the cutcherry of the Zila Court or local Adálat and that of the Collector* * * * * ";

And whereas doubts may be entertained as to who ought to exercise the jurisdiction transferred by the above mentioned Regulations [*and Acts*], where lands situate within the zila or other district of one Collector form part of an entire estate paying revenue to the Collector of another zila or district

In order therefore to avoid such doubts, and also to define who are the proper officers to exercise such jurisdiction in cases where lands are situate in a district assigned to an independent Deputy Collector, and also in cases where

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[1] SHORT TITLE —This short title was given by the Amending Act, 1897 (V of 1897), Sch III—*see post*, p 512

LOCAL EXTENT —This Act is in force in the district of Sylhet—*see* the Assam Land revenue [illegible] t, 1874 [illegible]

[2] Portion of the preamble relating to Act XXV of 1850 and Ben. Reg VIII of 1819, s. 9, which was repealed by the Repealing and Amending Act, 1891 (XII of 1891), is omitted

lands held in patni or other tenure at one entire rent are situate in two or more collectorates * * * *[1]; It is enacted as follows:—

Conduct of sale of lands when all in one collectorate;

1. If the lands which may be the subject of any such sale, or to the rent of which any such suit may relate, be all situate in one collectorate, the Collector [2] of such collectorate is the Collector to conduct the sale or to hear and decide the suit.

when in two or more collectorates.

If one taluk or tenure shall comprise lands situate in two or more collectorates, or if any lands situate in two or more collectorates be held under one lease or engagement or at one entire rent, the Collector[2] in whose collectorate the greater part of such lands shall be situate is the Collector to conduct the sale of such taluk or tenure or of such lands, and to hear and decide any summary suit relating to arrears or exactions of rent in respect thereof.

Procedure in case of doubt as to officer having jurisdiction.

2. If a Collector[2] to whom application shall be made to exercise any of the powers above-mentioned shall entertain any doubt as to whether the lands or the greater part of them are situate within his collectorate, he shall report the case for the order of the Board [3] to which he is subordinate, and, if ordered by such Board [3] to proceed in the matter, such order shall be conclusive upon the question of his jurisdiction.

"Collectorate" defined.

3. The word "Collectorate" in this Act means the zila or other district to which a Collector[2] is appointed; and no lands situate beyond the limits of such zila or district shall be deemed to be situate within the collectorate by reason of their forming part of an estate paying revenue to the Collector[2] thereof.

Powers and jurisdictions of independent Deputy Collector.

4. An independent Deputy Collector may, within his deputy collectorate, exercise all the powers and jurisdiction of a Collector [2] with which he may be entrusted, in the same manner and to the same extent as a Collector [2] may do within his collectorate; and, with reference to the exercise of such powers and jurisdictions, his deputy collectorate shall be deemed a collectorate, and he shall be deemed to be a Collector [2] within the meaning of this Act.

"Independent Deputy Collector."

5. An independent Deputy Collector is an officer appointed by Government to act as Deputy Collector independently of a Collector,[2] whether his office is one for the receipt of revenue or not.

"Deputy collectorate."

A deputy collectorate is the district within which an independent Deputy Collector is directed by Government to act.

Publication of notice of sale by independent Deputy Collector.

6. In cases of sales by an independent Deputy Collector under the above-mentioned Regulations [*or Act*] any notice thereby required to be stuck up at the cutcherry of the Collector may be stuck up at the cutcherry of the Deputy Collector.

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[1] The words "and to prevent any such decision or sale already made from being held invalid upon the ground of its having been made by an officer of a wrong district," which were repealed by the Repealing and Amending Act, 1891 (XII of 1891), are omitted.

[2] In Assam, the Deputy Commissioner.

[3] In Assam the Chief Commissioner—*see* the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (VII of 1912), s. 3, and Sch. D, Pt. III, *post*.

7. An independent Deputy Collector may exercise the powers assigned to him over any part of his deputy collectorate in public cutcherry, in whatever part of his deputy collectorate the same may be situate or held — Exercise of powers of independent Deputy Collector.

8. Any notice required by the above mentioned Regulations [*or Act*] to be given by advertisement to be stuck up at the cutcherry of the Zila Court or local Adálat shall be stuck up at the Zila Court or local Adálat within the jurisdiction of which the lands to be sold, or the greater portion of them, as the case may be, shall be situate — Publication of notice required by law to be advertised.

9. [*Order, etc, not to be disputed on ground that Collector was not the Collector of proper district*] *Rep by the Repealing Act, 1873 (12 of 1873)*

10. [*Extension of certain enactments to all sales under Act 8 of 1835*] *Rep by the Bengal Rent Recovery (Under tenures) Act, 1865 (Ben Act 8 of 1865)*

ACT 19 OF 1853

(THE RECUSANT WITNESSES ACT, 1853 [1])

[*2nd December, 1853*]

An Act to amend the Law of Evidence in the Civil Courts of the East India Company in the Bengal Presidency.

1-18. [*Repeals, who may be witnesses, manner of summoning witnesses, contents of summons, summons how served, person summoned to produce a document*] *Repealed by Act 10 of 1861*

19. [*Witness not a party to suit not bound to produce his own title deeds*] *Repealed by the Indian Evidence Act 1872 (1 of 1872)*

20-25. [*Privileged communications, punishment for non compliance with summons*] *Repealed by Act 10 of 1861*

26. Any person, whether a party to the suit or not to whom a summons to attend and give evidence or produce a document shall be personally delivered, and who shall, without lawful excuse, neglect or refuse to obey such summons, or who shall be proved to have absconded or kept out of the way to avoid being served with such summons, — Persons absconding, etc, to avoid service of summons, etc, liable for damages

and any person who, being in Court and upon being required by the Court to give evidence or produce a document in his possession, shall, without lawful

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[1] SHORT TITLE.—This short title was given by the Amending Act, 1897 (V of 1897) Sch III—*see post*

LOCAL EXTENT —S 26 has been declared, by notification under the Scheduled Districts Act, 1874 (XIV of 1874) s 3 to be in force in Assam (except the North Lushai Hills)—*see* Vol II, Appendix I, Table II

The application of the section is barred in the Lushai Hills by notification—*see* Vol II, Appendix II, Table D

The section has been repealed except in Assam by the Repealing and Amending Act, 1903 (I of 1903)

excuse, refuse to give evidence or sign his deposition, or to produce a document in his possession,

shall * * *[1] be liable to the party at whose request the summons shall have been issued, or at whose instance he shall be required to give evidence, or produce the document, for all damages which he may sustain in consequence of such neglect, or refusal, or of such absconding, or keeping out of the way as aforesaid, to be recovered in a civil action.

27-39. [*Property of person absconding liable for damages ; costs and fines ; appeal ; postponement of trial ; evidence to be taken down ; evidence of females ; power to require further evidence ; false evidence of parties punishable ; deposition by parties not to be used in their own favour ; no appeal against order for summons of witnesses.*] *Repealed by Act 10 of 1861.*

40. [*Documents referred to as a material proof to be filed with pleadings.*] *Repealed by Act 10 of 1855.*

41-44. [*Local extent ; commencement.*] *Repealed by Act 10 of 1861.*

ACT 3 OF 1867.

(THE PUBLIC GAMBLING ACT, 1867.)

CONTENTS.

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[1] The words "in addition to any proceedings under this Act," which were repealed by the Repealing and Amending Act, 1891 (XII of 1891), are omitted.

ACT 3 OF 1867.

(THE PUBLIC GAMBLING ACT, 1867 [1])

[*5th January 1867*]

An Act to provide for the punishment of public gambling and the keeping of common gaming-houses in the North-Western Provinces of the Presidency of Fort William, and in the Punjab, Oudh, [2] [and the Central Provinces]

WHEREAS it is expedient to make provision for the punishment of public gambling and the keeping of common gaming-houses in the territories respectively subject to the Governments of the Lieutenant-Governor of the North- Preamble.

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[1] SHORT TITLE —This short title was given by the Amending Act, 1897 (V of 1897), Sch III—*see post*

[illegible]

Sections 3 to 12 and 14 to 16 have been so extended to the following places in Assam, namely —

the Towns of Dhubri, Dibrugarh, Goalpára, Golaghat, Nowgong, Silchar, Sylhet and Tezpur,

[illegible] ement, 1901, [illegible] azette, 1906, Pt II, p 551

[2] These words "and the Central Provinces" were substituted for the words "the Central Provinces and British Burma" by the Repealing and Amending Act, 1903 (I of 1903), Sch. II *see post*

Western Provinces [1] of the Presidency of Fort William [2][and] of the Lieutenant-Governor of the Punjab, and to the administrations of the Chief Commissioner of Oudh [3][and of the Chief Commissioner of the Central Provinces];

It is hereby enacted as follows:—

Interpretation-clause.

1. In this Act,—

[4][" Lieutenant-Governor " means the Lieutenant-Governor of the United Provinces of Agra and Oudh or of the Punjab, as the case may be:

" Chief Commissioner " means the Chief Commissioner of the Central Provinces or of the North-West Frontier Province, as the case may be:]

" common gaming house " means any house, walled enclosure, room or place in which cards, dice, tables or other instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, enclosure, room or place, whether by way of charge for the use of the instruments of gaming, or of the house, enclosure, room or place or otherwise howsoever:

[5] * * * * * * *

Power to extend Act.

2. [6][Sections 13 and 17] of this Act shall extend to the whole of the said territories; [7] and it shall be competent to the Lieutenant-Governor or the Chief Commissioner, as the case may be, whenever he may think fit, to extend, by *a notification to be published in three successive numbers of the official* Gazette, all or any of the remaining sections of this Act, to any city, town, suburb, railway station-house and place being not more than three miles distant from any part of such station-house within the territories subject to his Government [7] or administration, and in such notification to define, for the purposes of this Act, the limits of such city, town, suburb or station-house, and from time to time to alter the limits so defined.

From the date of any such extension, so much of any rule having the force of law which shall be in operation in the territories to which such extension shall have been made as shall be inconsistent with or repugnant to any section so extended, shall cease to have effect in such territories.

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[1] The Lieutenant-Governor of the former North-Western Provinces and Oudh is now designated " the Lieutenant-Governor of the United Provinces of Agra and Oudh "—*see* the United Provinces (Designation) Act, 1902 (VII of 1902), U. P. Code.

[2] This word " and " was inserted by the Repealing and Amending Act, 1891 (XII of 1891), Sch. II—*see* Genl. Acts, Vol. IV.

[3] These words " and of the Chief Commissioner of the Central Provinces " were substituted for the words " of the Chief Commissioner of the Central Provinces and of the Chief Commissioner of British Burma " by the Repealing and Amending Act, 1903 (I of 1903), Sch. II—*see post.*

[4] These two definitions were substituted for the original definitions by the Repealing and Amending Act, 1903 (I of 1903), Sch. II—*see post.*

[5] Words repealed by Act XVII of 1914 are omitted.

[6] The words and figures " sections 13 and 17 " were substituted for the words and figures " sections 13, 17 and 18 " by the Amending Act, 1891 (XII of 1891), Sch. II—*See* Genl. Acts, Vol. IV.

[7] *Now read* Assam except the Lushai Hills—*see* the notifications referred to in the " Local Extent " footnote, *ante.*

Penalty for owning or keeping or having charge of, a gaming house

3. Whoever, being the owner or occupier, or having the use, of any house, walled enclosure, room or place, situate within the limits to which this Act applies, opens, keeps or uses the same as a common gaming house, and

whoever, being the owner or occupier of any such house, walled enclosure, room or place as aforesaid, knowingly or wilfully permits the same to be opened, occupied, used or kept by any other person as a common gaming house, and

whoever has the care or management of, or in any manner assists in conducting the business of any house, walled enclosure room or place as aforesaid, opened, occupied, used or kept for the purposes aforesaid, and

whoever advances or furnishes money for the purposes of gaming with persons frequenting such house, walled enclosure, room or place

shall be liable to a fine not exceeding two hundred rupees or to imprison-
1860 ment of either description, as defined in the Indian Penal Code [1] for any term not exceeding three months

Penalty for being found in gaming house

4. Whoever is found in any such house, walled enclosure, room or place, playing or gaming with cards, dice counters, money or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager stake or otherwise shall be liable to a fine not exceeding one hundred rupees, or to imprisonment of either description as defined
1860 in the Indian Penal Code [1], for any term not exceeding one month,

and any person found in any common gaming house during any gaming or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming

Power to enter and authorize police to enter and search

5. If the Magistrate of a district, or other officer invested with the full powers of a Magistrate or the District Superintendent of Police upon credible information, and after such inquiry as he may think necessary has reason to believe that any house, walled enclosure, room or place is used as a common gaming house

he may either himself enter, or by his warrant authorize any officer of police,[2] not below such rank as the Lieutenant Governor or Chief Commissioner shall appoint in this behalf, to enter with such assistance as may be found necessary, by night or by day, and by force, if necessary, any such house, walled enclosure, room or place,

and may either himself take into custody, or authorize such officer to take into custody, all persons whom he or such officer finds therein whether or not then actually gaming,

and may seize or authorize such officer to seize all instruments of gaming and all moneys and securities for money, and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming which are found therein,

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[1] Act XLV of 1860 Genl Acts, Vol 1

[2] Inspectors and Sub Inspectors of Police, and head constables in charge of Police-stations, have been empowered to receive and act upon warrants issued under s 5—*see* the Assam Local Statutory Rules and Orders 1893, p 10

and may search or authorize such officer to search all parts of the house, walled enclosure, room or place, which he or such officer shall have so entered when he or such officer has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he or such officer so takes into custody;

and may seize or authorize such officer to seize and take possession of all instruments of gaming found upon such search.

Finding cards, etc., in suspected houses, to be evidence that such houses are common gaming-houses.

6. When any cards, dice, gaming-table, cloth, boards or other instruments of gaming are found in any house, walled enclosure, room, or place, entered or searched under the provisions of the last preceding section, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, walled enclosure, room or place is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Magistrate or police-officer, or any of his assistants.

Penalty on persons arrested for giving false names and addresses.

7. If any person found in any common gaming-house entered by any Magistrate or officer of police under the provisions of this Act, upon being arrested by any such officer or upon being brought before any Magistrate, on being required by such officer or Magistrate to give his name and address, shall refuse or neglect to give the same, or shall give any false name or address, he may, upon conviction before the same or any other Magistrate, be adjudged to pay any penalty not exceeding five hundred rupees, together with such costs as to such Magistrate shall appear reasonable; and on the non-payment of such penalty and costs, or, in the first instance, if to such Magistrate it shall seem fit, may be imprisoned for any period not exceeding one month.

On conviction for keeping a gaming house, instruments of gaming to be destroyed.

8. On conviction of any person for keeping or using any such common gaming-house, or being present therein for the purpose of gaming, the convicting Magistrate may order all the instruments of gaming found therein to be destroyed, and may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof with all moneys seized therein to be forfeited; or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

Proof of playing for stakes unnecessary.

9. It shall not be necessary, in order to convict any person of keeping a common gaming-house, or of being concerned in the management of any common gaming-house, to prove that any person found playing at any game was playing for any money, wager or stake.

Magistrate may require any person apprehended to be sworn and give evidence.

10. It shall be lawful for the Magistrate before whom any persons shall be brought, who have been found in any house, walled enclosure, room or place, entered under the provisions of this Act, to require any such persons to be examined on oath or solemn affirmation, and give evidence touching any unlawful gaming in such house, walled enclosure, room or place, or touching any act done for the purpose of preventing, obstructing or delaying the entry

into such house, walled enclosure, room or place or any part thereof, of any Magistrate or officer authorized as aforesaid

No person so required to be examined as a witness shall be excused from being so examined when brought before such Magistrate as aforesaid, or from being so examined at any subsequent time by or before the same or any other Magistrate, or by or before any Court on any proceeding or trial in any ways relating to such unlawful gaming or any such acts as aforesaid, or from answering any question put to him touching the matters aforesaid, on the ground that his evidence will tend to criminate himself

Any such person so required to be examined as a witness who refuses to make oath or take affirmation accordingly or to answer any such question as aforesaid, shall be subject to be dealt with in all respects as any person committing the offence described in section 178 or section 179 (as the case may
1860 be) of the Indian Penal Code [1]

Witnesses indemnified

11. Any person who shall have been concerned in gaming contrary to this Act, and who shall be examined as a witness before a Magistrate on the trial of any person for a breach of any of the provisions of this Act relating to gaming, and who, upon such examination, shall in the opinion of the Magistrate make true and faithful discovery, to the best of his knowledge of all things as to which he shall be so examined, shall thereupon receive from the said Magistrate a certificate in writing to that effect, and shall be freed from all prosecutions under this Act for anything done before that time in respect of such gaming

Act not to apply to certain games

12. Nothing in the foregoing provisions of this Act contained shall be held to apply to any game of mere skill wherever played

Gaming and setting birds and animals to fight in public streets

13. A police officer may apprehend without warrant—

any person found playing for money or other valuable thing with cards, dice, counters or other instruments of gaming used in playing any game not being a game of mere skill, in any public street, place or thoroughfare situated within the limits aforesaid or

any person setting any birds or animals to fight in any public street, place or thoroughfare situated within the limits aforesaid, or

any person there present aiding and abetting such public fighting of birds and animals

Such person when apprehended shall be brought without delay before a Magistrate, and shall be liable to a fine not exceeding fifty rupees, or to imprisonment, either simple or rigorous, for any term not exceeding one calendar month, and

Destruction of instruments of gaming found in public streets

such police officer may seize all instruments of gaming found in such public place or on the person of those whom he shall so arrest, and the Magistrate may on conviction of the offender order such instruments to be forthwith destroyed

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[1] Printed in Genl Acts, Vol I

Offences by whom triable. **14.** Offences punishable under this Act shall be triable by any Magistrate having jurisdiction in the place where the offence is committed.

But such Magistrate shall be restrained within the limits of his jurisdiction under the Code of Criminal Procedure [1] as to the amount of fine or imprisonment he may inflict.

Penalty for subsequent offence. **15.** Whoever, having been convicted of an offence punishable under section 3 or section 4 of this Act, shall again be guilty of any offence punishable under either of such sections, shall be subject for every such subsequent offence to double the amount of punishment to which he would have been liable for the first commission of an offence of the same description:

Provided that he shall not be liable in any case to a fine exceeding six hundred rupees, or to imprisonment for a term exceeding one year.

Portion of fine may be paid to informer. **16.** The Magistrate trying the case may direct any portion of any fine which shall be levied under sections 3 and 4 of this Act, or any part of the moneys or proceeds of articles seized and ordered to be forfeited under this Act, to be paid to an informer.

Recovery and application of fines. **17.** All fines imposed under this Act may be recovered in the manner prescribed by section 61 of the Code of Criminal Procedure [1]; and such fines shall (subject to the provisions contained in the last preceding section) be applied as the Lieutenant-Governor or Chief Commissioner, as the case may be, shall from time to time direct.[2]

18. [*Offences under this Act to be " offences " within meaning of Penal Code.*] *Rep. by the Repealing Act, 1874 (16 of 1874).*

ACT 17 OF 1878.

(The Northern India Ferries Act, 1878).

CONTENTS.

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[1] Now the Code of Criminal Procedure, 1898 (Act V of 1898)—*see* Genl. Acts, Vol. V.

[2] A direction has been given for the crediting of the balance of such fines to the Municipal or Town Fund, if the offence is committed within the local limits of any place having such a Fund, and elsewhere to " Law and Justice "—*see* the Assam Local Statutory Rules and Orders, 1893, p. 10.

II.—Public Ferries

Sections

III.—Private Ferries

IV.—Penalties and Criminal Procedure

V.—MISCELLANEOUS.

SECTIONS.

ACT 17 OF 1878.

(THE NORTHERN INDIA FERRIES ACT, 1878.[1])

[*9th November, 1878.*]

An Act to regulate Ferries in Northern India.

Preamble.

WHEREAS it is expedient to regulate ferries in the Punjab, the North-Western Provinces, Oudh, the Central Provinces, Assam and Ajmer and Merwara; It is hereby enacted as follows:—

I.—PRELIMINARY.

Short title.

1. This Act may be called the Northern India Ferries Act, 1878.

Local extent.

It extends only to the territories respectively administered by the Lieutenant-Governors of the Punjab and the North-Western Provinces and the Chief Commissioners of Oudh, the Central Provinces, Assam and Ajmer and Merwara.

Commencement.

It shall come into force in [*each of*] the said territories on such date[2] as the Local Government may, by notification in the official Gazette, fix in this behalf.

Repeal.

2. On and from the date on which it comes into force in the territories [*respectively*] administered by [*the Lieutenant-Governor of the North-Western Provinces and*] the said Chief Commissioners, Bengal Regulation 6 of 1819 shall be repealed therein; but all determinations, declarations, orders and rules made, engagements entered into, and securities taken under that Regu-

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[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, *see* Gazette of India, 1878, Pt. V, p. 135; for Report of Select Committee, *see ibid*, p. 210; and for Proceedings in Council, *see ibid*, Supplement pp. 286, 325, 1104, 1194.

LOCAL EXTENT.—The application of this Act in the Lushai Hills is barred by notification (*see* Vol. II, Appendix II, Table D).

RULES AND ORDERS.—For rules and orders made under this Act,—*see* the Assam Local Statutory Rules and Orders, 1893, pp. 115 to 123; *ibid*, Supplement, 1901, pp. 25 to 28; and Correction Slips to those volumes; and the Assam Executive Manual, 1905, pp. 97, 98.

[2] Act XVII of 1878 was brought into force in Assam from the 1st April, 1879—*see* Notfn. No. 18, dated 12th March, 1879, in Assam Gazette, 1879, Pt. I, p. 187 (Assam Local Statutory Rules and Orders, 1893, p. 115).

lation, and then in force, shall be deemed to be respectively made, entered into and taken under this Act

3. In this Act the word "ferry" includes also a bridge of boats, pontoons or rafts, a swing-bridge, flying-bridge and a temporary bridge, and the approaches to, and landing-places of, a ferry

II —Public Ferries

4. The Local Government may, from time to time,— Power to declare establish, define and discontinue public ferries

(*a*) declare what ferries shall be deemed public ferries, and the respective districts in which, for the purposes of this Act, they shall be deemed to be situate,

(*b*) take possession of a private ferry and declare it to be a public ferry,

(*c*) establish new public ferries where, in its opinion, they are needed,

(*d*) define the limits of any public ferry,

(*e*) change the course of any public ferry, and

(*f*) discontinue any public ferry which it deems unnecessary

Every such declaration, establishment, definition, change or discontinuance shall be made by notification in the official Gazette

Provided that, when a river lies between two provinces, the powers conferred by this section shall, in respect of such river, be exercised by the Governor General in Council, by notification in the Gazette of India, and not otherwise

Provided also that, when any alteration in the course or in the limits of a public ferry is rendered necessary by changes in the river, such alteration may be made, by an order under his hand, by the Commissioner of the division in which such ferry is situate, or by such other officer as the Local Government may, from time to time, appoint by name or in virtue of his office in this behalf

5. Claims for compensation for any loss sustained by any person in consequence of a private ferry being taken possession of under section 4, shall be inquired into by the Magistrate of the district in which such ferry is situate, or such officer as he appoints in this behalf, and submitted for the consideration and orders of the Local Government Claims for compensation.

6. The immediate superintendence of every public ferry shall, except as provided in section 7, be vested in the Magistrate of the district in which such ferry is situate, or in such other officer as the Local Government may, from time to time, appoint by name or in virtue of his office in this behalf, Superintendence of public ferries

and such Magistrate or officer shall, except when the tolls at such ferry are leased, make all necessary arrangements for the supply of boats for such ferry, and for the collection of the authorised tolls leviable thereat

7. The Local Government may direct that any public ferry situate within the limits of a town be managed by the officer or public body charged with the superintendence of the municipal arrangements of such town; Management may be vested in municipality,

and proceeds paid into municipal fund.

and may further direct that all or any part of the proceeds from such ferry be paid into the municipal fund of such town;

and thereupon such ferry shall be managed, and such proceeds or part thereof shall be paid, accordingly.

7A. [*Management of public ferries in the United Provinces of Agra and Oudh, the Central Provinces and the Punjab.*] *Omitted as being inapplicable to Assam.*

Letting ferry-tolls by auction.

[1]**8.** The tolls of any public ferry may, from time to time, be let by public auction for a term not exceeding five years with the approval of the Commissioner, or by public auction, or otherwise than by public auction, for any term with the previous sanction of the Local Government.

The lessee shall conform to the rules made under this Act for the management and control of the ferry, and may be called upon by the officer in whom the immediate superintendence of the ferry is vested, or, if the ferry is managed by a municipal or other public body under section 7 or section 7A,[2] then by that body, to give such security for his good conduct and for the punctual payment of the rent as the officer or body, as the case may be, thinks fit.

When the tolls are put up to public auction, the said officer or body, as the case may be, or the officer conducting the sale on his or its behalf, may, for reasons recorded in writing, refuse to accept the offer of the highest bidder, and may accept any other bid, or may withdraw the tolls from auction.

Recovery of arrears from lessee.

9. All arrears due by the lessee of the tolls of a public ferry on account of his lease may be recovered from the lessee or his surety (if any) by the Magistrate of the district in which such ferry is situate as if they were arrears of land-revenue.

Power to cancel lease.

10. The Local Government may cancel the lease of the tolls of any public ferry on the expiration of six months' notice in writing to the lessee of its intention to cancel such lease.

When any lease is cancelled under this section, the Magistrate of the district in which such ferry is situate shall pay to the lessee such compensation as such Magistrate may, with the previous sanction of the Local Government, award.

Surrender of lease.

11. The lessee of the tolls of a public ferry may surrender his lease on the expiration of one month's notice in writing to the Local Government of his intention to surrender such lease, and on payment to the Magistrate of the district in which such ferry is situate of such compensation as such Magistrate, subject to the approval of the Commissioner, may in each case direct.

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[1] This section was substituted for the original s. 8 by the Northern India Ferries Act Amendment Act, 1886 (III of 1886), s. 1 (1), *post*, p. 110. The original section ran thus:—

"8. The tolls of any public ferry may, from time to time, be let by public auction for such term, not exceeding five years, as the Magistrate of the District, subject to the approval of the Commissioner of the Division in which such ferry is situate, may deem expedient.

The lessee shall conform to the rules made under this Act for the management and control of such ferry, and may be called upon by the officer conducting the auction to give such security for his good conduct and for the punctual payment of the rent as such officer thinks fit.

Such officer may, for sufficient reason recorded in writing under his hand, refuse to accept the offer of the highest bidder, and may accept any other bid, or may withdraw the tolls from auction."

[2] S. 7A does not apply to Assam.

12. Subject to the control of the Local Government, the Commissioner of a division, or such other officer as the Local Government may from time to time appoint in this behalf, by name or in virtue of his office, may from time to time make rules, consistent with this Act,— Power to make rules

(*a*) for the control and the management of all public ferries within such division and for regulating the traffic at such ferries ,

[1][(*b*) for regulating the time and manner at and in which and the terms on which, the tolls of such ferries may be let by auction and prescribing the persons by whom auctions may be conducted] ,

(*c*) for compensating persons who have compounded for tolls payable for the use of any such ferry when such ferry has been discontinued before the expiration of the period compounded for, and

(*d*) generally, to carry out the purposes of this Act ,

and, when the tolls of a ferry have been let under section 8 such Commissioner or other officer may, from time to time (subject as aforesaid), make additional rules, consistent with this Act —

(*e*) for collecting the rents payable for the tolls of such ferries ,

(*f*) in cases in which the communication is to be established by means of a bridge of boats, pontoons or rafts, or a swing bridge flying bridge or temporary bridge for regulating the time and manner at and in which such bridge shall be constructed and maintained and opened for the passage of vessels and rafts through the same , and

(*g*) in cases in which the traffic is conveyed in boats, for regulating—

(1) the number and kinds of such boats, and their dimensions and equipment ,

(2) the number of the crew to be kept by the lessee for each boat ,

(3) the maintenance of such boats continually in good condition ,

(4) the hours during which, and the intervals within which, the lessee shall be bound to ply , and

(5) the number of passengers, animals and vehicles and the bulk and weight of other things, that may be carried in each kind of boat at one trip

The lessee shall make such returns of traffic as the Commissioner or other officer as aforesaid may, from time to time, require

13. [2] [Except with the sanction of the Magistrate of the district or of such other officer as the Local Government may, from time to time, appoint Private ferry not to ply within two

Am

by

[2] This paragraph in s 13 was substituted for the original paragraph by the Northern India Ferries Act Amendment Act, 1886 (III of 1886) s 2 (1), *post* p 110 The original

in this behalf, by name or in virtue of his office, no person shall establish, maintain or work a ferry to or from any point within a distance of two miles from the limits of a public ferry]:

Provided that, in the case of any specified public ferry, the Local Government may, by notification in the official Gazette, reduce or increase the said distance of two miles to such extent as it thinks fit:

Provided also that nothing hereinbefore contained shall—

prevent persons plying between two places, one of which is without, and one within, the said limits, when the distance between such two places is not less than three miles, or

apply to boats[1] [which do not ply for hire or] which the Local Government expressly exempts from the operation of this section.

Person using approaches, etc., liable to pay toll.

14. Whoever uses the approach to, or landing place of, a public ferry is liable to pay the toll payable for crossing such ferry.

Tolls.

15. Tolls, according to such rates as are from time to time fixed by the Local Government, shall be levied on all persons, animals, vehicles and other things[2] crossing any river by a public ferry and not employed or transmitted on the public service:

Provided that the Local Government may, from time to time, declare that any persons, animals, vehicles or other things shall be exempt from payment of such tolls.

Where the tolls of a ferry have been let under section 8, any such declaration, if made after the date of the [3] [lease], shall entitle the lessee to such abatement of the rent payable in respect of the tolls as may be fixed by the Commissioner of the division or such other officer as the Local Government may, from time to time, appoint in this behalf by name or in virtue of his office.

Table of tolls.

16. The lessee or other person authorised to collect the tolls of any public ferry shall affix a table of such tolls legibly written or printed in the Vernacular language, and also, if the Commissioner of the division so directs, in English, in some conspicuous place near the ferry;

List of tolls.

and shall be bound to produce, on demand, a list of the tolls, signed by the Magistrate of the district or such other officer as he appoints in this behalf.

Tolls, rents, compensation and fines how disposed of.

17. Except as provided by section 7, all tolls, rents and compensation received by or on behalf of Government, and all fines levied, under this Act, shall be disposed of as follows, that is to say:—

(*a*), (*b*), (*c*) [*Omitted as applying only to the United Provinces of Agra and Oudh, the Punjab and the Central Provinces*];

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[1] These words in square brackets in s. 13 were inserted by the Northern India Ferries Act Amendment Act, 1886 (III of 1886), s. 2 (2), *post*, p. 110.

[2] So much of s. 15 as provides for the exemption from payment of tolls of any persons, animals, vehicles or other things which are exempted by s. 3 of the Indian Tolls (Army) Act, 1901 (II of 1901), is repealed by s. 8 of that Act.

For further exemptions from tolls, *see* ss. 3 and 4 of the said Act, in Genl. Acts, Vol. V.

[3] This word "lease" was substituted for the word "auction" by the Northern India Ferries Act Amendment Act, 1886 (III of 1886), s. 1 (3), *post*, p. 110.

(*d*) in the territories respectively administered by the Chief Commissioner of Assam and the Chief Commissioner of Ajmer and Merwara, such tolls, rents, compensation and fines shall be credited to the Local Government and applied, first, to defraying all charges incurred in carrying out this Act in those territories respectively, and then to such local works and establishments likely to promote the public health, comfort or convenience as the Local Government, subject to the control of the Governor General in Council, may, from time to time, direct

18. The Local Government may, if it thinks fit, from time to time, fix rates at which any person may compound for the tolls payable for the use of a public ferry Compounding for tolls

III —PRIVATE FERRIES

19. The Commissioner of the division may, with the previous sanction of the Local Government, from time to time, make rules for the maintenance of order and for the safety of passengers and property at ferries other than public ferries Power to make rule

20. The tolls charged as such ferries shall not exceed the highest rates for the time being fixed under section 15 for similar public ferries Tolls

IV —PENALTIES AND CRIMINAL PROCEDURE

21. Every lessee or other person authorised to collect the tolls of a public ferry, who neglects to affix and keep in good order and repair the table of tolls mentioned in section 16, Penalty for breach of provisions as to table of tolls, list of tolls and return of traffic

or who wilfully removes, alters or defaces such table, or allows it to become illegible,

or who fails to produce on demand the list of the tolls mentioned in section 16,

and every lessee who neglects to furnish any return required under section 12,

shall be punished with fine which may extend to fifty rupees

22. Every such lessee or other person as aforesaid and any person in possession of a private ferry asking or taking more than the lawful toll, or without due cause delaying any person, animal, vehicle or other thing, shall be punished with fine which may extend to one hundred rupees Penalty for taking unauthorised toll, and for causing delay

23. Every person breaking any rule made under section 12 or section 19 shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both Penalty for breach of rules made under sections 12 and 19

24. When any lessee of the tolls of a public ferry makes default in the payment of the rent payable in respect of such tolls, or has been convicted of an offence under section 23, or having been convicted of an offence under section 21 or section 22, is again convicted of an offence under either of those sections, Cancelment of lease on default or breach of rules

the Magistrate of the district may, with the sanction of the Commissioner of the division, cancel the lease of the tolls of such ferry, and make other arrangements for its management during the whole or any part of the term for which the tolls were let.

Penalties on passengers offending.

25. Every person crossing by any public ferry, or using the approach to or landing-place thereof, who refuses to pay the proper toll, and every person—

who, with intent to avoid payment of such toll, fraudulently or forcibly crosses by any such ferry without paying the toll, or

who obstructs any toll-collector or lessee of the tolls of a public ferry, or any of his assistants, in any way in the execution of their duty under this Act, or

who, after being warned by any such toll-collector, lessee or assistant not to do so, goes or takes any animals, vehicles or other things into any ferry-boat, or upon any bridge at such a ferry, which is in such a state or so loaded as to endanger human life or property, or

who refuses or neglects to leave, or remove any animals, vehicles or goods from any such ferry-boat or bridge, on being requested by such toll-collector, lessee or assistant to do so,

shall be punished with fine which may extend to fifty rupees.

Penalty for maintaining private ferry within prohibited limits.

[1]**26.** [Whoever establishes, maintains or works a ferry in contravention of the provisions of section 13 shall be punished with fine which may extend to five hundred rupees, and with a further fine which may extend to one hundred rupees for every day during which the ferry is maintained or worked in contravention of those provisions.]

Fines payable to lessee.

27. Where the tolls of any public ferry have been let under the provisions hereinbefore contained, the whole or any portion of any fine realized under section 25 or section 26 may, notwithstanding anything contained in section 17, be, at the discretion of the convicting Magistrate or Bench of Magistrates, paid to the lessee.

Penalty for rash navigation and stacking of timber.

28. Whoever navigates, anchors, moors or fastens any vessel or raft, or stacks any timber, in a manner so rash or negligent as to damage a public ferry, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both; and the toll-collector or lessee of the tolls of such ferry or any of his assistants may seize and detain such vessel, raft or timber pending the inquiry and assessment hereinafter mentioned.

Power to arrest without warrant.

29. The police may arrest without warrant any person committing an offence against section 25 or section 28.

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[1] This section was substituted for the original s. 26 by the Northern India Ferries Act Amendment Act, 1886 (III of 1886), s. 2 (3), *post*, p. 110. The original section ran thus:—

"26. Whoever conveys for hire any passenger, animal, vehicle or other thing, in contravention of the provisions of section 13, shall be punished with fine which may extend to fifty rupees."

30. Any Magistrate or Bench of Magistrates having summary jurisdiction under Chapter XVIII of the Code of Criminal Procedure, [1] may try any offence against this Act in manner provided by that Chapter

Power to try summarily

31. Every Magistrate or Bench of Magistrates trying any offence under this Act may inquire into and assess the value of the damage (if any) done or caused by the offender to the ferry concerned, and shall order the amount of such value to be paid by him in addition to any fine imposed upon him under this Act, and the amount so ordered to be paid shall be leviable as if it were a fine, or when the offence is one under section 28, by the sale of the vessel, raft or timber causing the damage, and of anything found in or upon such vessel or raft

Magistrate may assess damage done by offender

The Commissioner of the division may, on the appeal of any person deeming himself aggrieved by an order under this section, reduce or remit the amount payable under such order

V —MISCELLANEOUS

32. When the lease of the tolls of any ferry is surrendered under section 11 or cancelled under section 24, the Magistrate of the district may take possession of all boats and their equipment, and all other material and appliances, used by the lessee for the purposes of such ferry, and use the same (paying such compensation for the use thereof as the Local Government may in each case direct) until such Magistrate can conveniently procure proper substitutes therefor

Power to take possession of boats, etc on surrender or cancellation of lease

33. When any boats or their equipment, or any materials or appliances suitable for setting up a ferry, are emergently required for facilitating the transport of officers or troops of Her Majesty on duty, or of any other persons on the business of Her Majesty, or of any animals, vehicles or baggage belonging to such officers, troops or persons, or of any property of Her Majesty, the Magistrate of the district may take possession of and use the same (paying such compensation for the use thereof as the Local Government may in each case direct) until such transport is completed

Similar power in cases of emergency.

34. No suit to ascertain the amount of any compensation payable or abatement of rent allowable, under this Act, shall be cognisable by any Civil Court

Jurisdiction of Civil Courts barred

35. The Local Government may, from time to time, delegate, under such restrictions as it thinks fit, any of the powers conferred on it by this Act to any Commissioner of a division or Magistrate of a district, or to such other officer as it thinks fit, by name or by virtue of his office

Delegation of powers

36. [*Validation of proceedings since repeal of Ben Reg* 6 *of* 1819 *in Punjab*] *Rep by*[1] *the Repealing and Amending Act*, 1891 (12 *of* 1891)

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[1] Now Ch XXII of the Code of Criminal Procedure, 1898 (Act V of 1898)—*see* Genl Acts, Vol V

ACT No. 14 OF 1879.

(THE HACKNEY-CARRIAGE ACT, 1879.[1])

An Act for the regulation and control of Hackney-carriages in certain Municipalities and Cantonments.

[*5th September, 1879.*]

Preamble.

WHEREAS it is expedient to provide for the regulation and control of hackney-carriages in certain municipalities and cantonments; It is hereby enacted as follows:—

Short title. Commencement. Saving.

1. This Act may be called the Hackney-Carriage Act, 1879; [2] * * * * * . ;

nothing herein contained shall affect any power conferred by any law relating to municipalities, or any rule made in exercise of any such power.

Interpretation-clause.

2. In this Act—

"hackney-carriage" means any wheeled vehicle drawn by animals and used for the conveyance of passengers which is kept, or offered, or plies for hire; and

"committee" means a municipal committee, or a body of municipal commissioners, constituted under the provisions of any enactment for the time being in force.

Application of Act to municipalities.

3.[3] [The Lieutenant-Governors of the United Provinces of Agra and Oudh, the Punjab and Burma, and the Chief Commissioners of the Central Provinces, Assam, Ajmer and Coorg,] may, by notification in the official Gazette, apply this Act to any municipality in the territories administered by them respectively.

Power of committees to make rules.

When this Act has been so applied to any municipality, the committee of such municipality may, from time to time, make rules for the regulation and control of hackney-carriages within the limits of such municipality, in the

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[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, *see* Gazette of India, 1879, Pt. V, p. 52; and for Proceedings in Council, *see ibid* Supplement, pp. 49, 78, 1141.

LOCAL EXTENT.—This Act extends to municipalities in Assam to which it is applied by the Local Government (*see* s. 3); to any military cantonment in Assam for which rules are made or extended under s. 4 or s. 5; and to any railway-station or specified part of a road in Assam to which rules made under the Act are extended under s. 5.

It has been extended to—

the Dibrugarh Municipality—*see* Notfn. No. 2702 F., dated 6th July, 1905, in Assam Gazette, 1905, Pt. II, p. 577;

the Gauhati Municipality—*see* Notfn. No. 5297 J., dated 28th November, 1902, in Assam Gazette, 1902, Pt. II, p. 801;

the Silchar Municipality—*see* Notfn. No. 1128 F., dated 22nd March, 1904, in Assam Gazette, 1904, Pt. II, p. 183, and (revised boundaries) Notfn. No. 6399J., dated 11th June, 1906, in E. B. and A. Gazette, 1906, Pt. II, p. 551.

The application of the Act in the Lushai Hills is barred by notification—*see* Vol. II, Appendix II, Table D.

[2] The words "and it shall come into force at once" were repealed by Act XVII of 1914 and are omitted.

[3] These words in the first set of square brackets in s. 3 were substituted for the words "The Lieutenant-Governors of the North-Western Provinces and the Punjab and the Chief Commissioners of Oudh, the Central Provinces, British Burma;" by the Repealing and Amending Act. 1903 (I of 1903), Sch. II—*see post.*

manner in which, under the law for the time being in force, it makes rules or bye-laws for the regulation and control of other matters within such limits

Every rule made under this section shall, when confirmed by the [1][Commissioner] and published for such time and in such manner as the [1][Commissioner] may, from time to time, prescribe, have the force of law

Confirmation and publication of rules

Provided that the [1][Commissioner] may, at any time, rescind any such rule

Power of Local Government to rescind rules

4. The Local Government of any of the said territories may, from time to time, [2]* * * * make rules for the regulation and control of hackney-carriages in any military cantonment situated in the territory administered by it * * * * [3]

Power to make rules for cantonments

All rules made under this section, when published for such time and in such manner as the authority making the same may, from time to time, prescribe, shall have the force of law

5. The authority making any rules under this Act may extend their operation to any railway-station, or specified part of a road, not more than six miles from the local limits of the municipality or cantonment concerned

Power to extend operation of rules beyond limits of municipality or cantonment

Provided that such extension shall be made, in the case of a municipality, with the sanction of the [1][Commissioner] and, in the case of a cantonment situate in British India, subject to the control of the Governor-General in Council

When any rules have been made under this Act for any municipality, the Local Government may, subject to the control of the Governor General in Council, extend the operation of such rules to any cantonment the boundary of which is not more than six miles distant from the boundary of such municipality

6. The rules to be made under section 3 or section 4 may, among other matters,—

What rules under sections 3 and 4 may provide for.

(*a*) direct that no hackney-carriage, or no hackney-carriage of a particular description, shall be let to hire, or taken to ply or offered for hire except under a license granted in that behalf,

(*b*) direct that no person shall act as driver of a hackney-carriage except under a license granted in that behalf,

(*c*) provide for the issue of the licenses referred to in clauses (*a*) and (*b*), prescribe the conditions (if any) on which such licenses shall be granted, and fix the fees (if any) to be paid therefor,

(*d*) regulate the description of animals, harness and other things to be used with licensed carriages, and the condition in which such

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[1] Substituted for the words "Local Government" by Act IV of 1914

[2] The words "subject to the control of the Governor General in Council" were repealed by Act IV of 1914

[3] The words "and the Governor General in Council may from time to time make rules for the regulation and control of hackney carriages in any place in India, but not in British India, in which British troops are cantoned," which were repealed by the Cantonments Act, 1889 (XIII of 1889) are omitted

carriages, and the animals, harness and other things used therewith, shall be kept, and the lights (if any) to be carried after sunset and before sunrise;

(*e*) provide for the inspection of the premises on which any such carriages, animals, harness and other things are kept;

(*f*) fix the time for which such licenses shall continue in force, and the events (if any) upon which within such time they shall be subject to revocation or suspension;

(*g*) provide for the numbering of such carriages;

(*h*) determine the times at which, and the circumstances under which, any person keeping a hackney-carriage shall be bound to let or refuse to let such carriage to any person requiring the same;

(*i*) appoint places as stands for hackney-carriages, and prohibit such carriages waiting for hire except at such places;

(*j*) limit the rates or fares, as well for time as distance, which may be demanded for the hire of any hackney-carriage; and prescribe the minimum speed at which such carriages when hired by time shall be driven;

(*k*) limit the number of persons, and the weight of property, which may be conveyed by any such carriage;

(*l*) require the owner or person in charge of any such carriage to keep a printed list of fares in English and such other language as may be prescribed affixed inside such carriage in such place as may be determined by the rules, and prohibit the destruction or defacement of such list;

(*m*) require drivers to wear a numbered badge or ticket, and to produce their licenses when required by a Magistrate or other person authorised by the rules in this behalf, and prohibit the transfer or lending of such licenses and badges; and

(*n*) provide for the deposit of property found in such carriages, and the payment of a fee by the owner of such property on the delivery thereof to him.

Penalty for breach of rules.

7. Any person breaking any rule made under this Act shall be punished with fine which may extend to fifty rupees.

Disposal of fees and payment of expenses.

8. The amount of any fees received and the amount of any expenses incurred in giving effect to this Act shall in any municipality be credited and debited respectively to the municipal fund, and in any cantonment where there is a cantonment-fund, to such fund.

Power of Magistrate to decide disputes regarding fares.

9. If any dispute arises between the hirer of any hackney-carriage and the owner or driver of such carriage as to the amount of the fare payable by such hirer under any rule made under this Act, such dispute shall, upon application made in that behalf by either of the disputing parties, be heard and determined by any Magistrate or bench of Magistrates within the local limits of whose jurisdiction such dispute has arisen; and such Magistrate or bench may,

besides determining the amount so in dispute, direct that either party shall pay to the other such sum as compensation for loss of time as such Magistrate or bench thinks fit

Any sum determined to be due or directed to be paid under this section shall be recoverable as if it were a fine

The decision of any Magistrate or bench in any case under this section shall be final

When any such case is heard by a bench, any difference of opinion arising between the members of such bench shall be settled in the same manner as differences of opinion arising between such members in the trial of criminal cases

10. [illegible]
or benc [illegible]
within [illegible]
require the driver thereof to take him in the same to the Court of such Magistrate or bench for the purpose of making an application under that section

driver to take him to Court

Any driver neglecting or refusing to comply with such requisition shall be punished with imprisonment for a term which may extend to one month, or with fine not exceeding fifty rupees, or with both

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ACT 13 OF 1880

(THE VACCINATION ACT, 1880)

CONTENTS

ACT 13 OF 1880.

(THE VACCINATION ACT, 1880.[1])

[*9th July, 1880.*]

An Act to give power to prohibit inoculation, and to make the vaccination of children compulsory, in certain municipalities and cantonments.

Preamble. WHEREAS it is expedient to give power to prohibit inoculation, and make

[1] LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, *see* Gazette of India, 1880, Pt. V, *p.* 80; for Report of Select Committee, *see ib.* p. 205; and for Proceedings in Council, *see ib.*, 1879, Supplement, p. 1225, and *ib.*, 1880, Supplement, pp. 566, 1204.

LOCAL EXTENT.—This Act applies to municipalities and cantonments in Assam to which it is extended by notification under ss. 3 and 4—*see* s. 1.

It has been so extended to the Dhubri, Dibrugarh, Gauhati, Goalpara, Nowgong and Sylhet Municipalities and the Dibrugarh and Shillong Cantonments—*see* the Assam *Local Statutory* Rules and Orders, 1893, pp. *160 to 162, and ibid,* Supplement, 1901, p. 57. As to revised boundaries of the Dhubri Municipality, prescribed for the purposes of this Act, *see ibid,* Supplement, 1901, p. 57.

Power to withdraw any local area in a municipality or cantonment from the operation of the Act is given by s. 5, *post.*

RULES.—For rules approved under s. 19 or s. 20 for the municipalities and cantonments mentioned in footnote above, *see* the Assam Local Statutory Rules and Orders, 1893, pp. 162 to 180, and *ibid,* Supplement, 1901, pp. 57 to 62.

the vaccination of children compulsory, in certain municipalities and cantonments, It is hereby enacted as follows —

Short title

1. This Act may be called the Vaccination Act, 1880 and

Application

it shall apply only to such municipalities and cantonments situate in the territories administered respectively by the Lieutenant Governors of the North Western Provinces[1] and the Punjab and the Chief Commissioners of Oudh[1] the Central Provinces, British Burma,[2] Assam, Ajmer and Coorg as it may be extended to in manner hereinafter[3] provided

Interpretation clause

2. In this Act, unless there is something repugnant in the subject or context,—

(*1*) the expression "municipal commissioners" means a body of municipal commissioners or a municipal committee constituted under the provisions of any enactment for the time being in force

(*2*) "parent" means the father of a legitimate child and the mother of an illegitimate child

(*3*) "guardian" includes any person who has accepted or assumed the care or custody of any child

(*4*) "unprotected child" means a child who has not been protected from small pox by having had that disease either naturally or by inoculation, or by having been successfully vaccinated, and who has not been certified under this Act to be insusceptible to vaccination

(*5*) "inoculation" means any operation performed with the object of producing the disease of small pox in any person by means of variolous matter

(*6*) "vaccination circle" means one of the parts into which a municipality or cantonment has been divided under this Act for the performance of vaccination

(*7*) "vaccinator" means any vaccinator appointed under this Act to perform the operation of vaccination, or any private person authorized [4] * * * * in manner hereinafter provided to perform the same operation, and includes a "Superintendent of vaccination"

(*8*) "vaccination season" means the period from time to time fixed by the Local Government for any local area under its administration, by notification in the official Gazette, during which alone vaccination may be performed under this Act

Extension of Act to municipalities

3. A majority in number of the persons present at a meeting of the Municipal Commissioners specially convened in this behalf may apply to the Local Government to extend this Act to the whole or any part of a municipality, and thereupon the Local Government may, if it thinks fit by notifi-

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[1] The Lieutenant Governor of the former North Western Provinces and Oudh is now designated the "Lieutenant Governor of the United Provinces of Agra and Oudh"—*see* the United Provinces (Designation) Act, 1902 (VII of 1902) in U P Code

[2] This reference to "the territories administered by the Chief Commissioner of British Burma" should now be construed as referring to Lower Burma—*see* the Burma Laws Act 1898 (XIII of 1898) s 7, printed in the Burma Code

[3] *See* ss 3 and 4 *post*

[4] The words "by the Local Government" were repealed by Act IV of 1914

cation published in the official Gazette, declare its intention to extend this Act in the manner proposed.

Any inhabitant of such municipality or part thereof who objects to such extension may, within six weeks from the date of such publication, send his objection in writing to the Secretary to the Local Government, and the Local Government shall take such objection into consideration.

When six weeks from the said publication have expired, the Local Government, if no such objections have been sent as aforesaid, or (when such objections have been so sent) if in its opinion they are insufficient, may by like notification effect the proposed extension.

Extension to cantonments.

4. The Local Government may, [1][subject to the control] of the Governor General in Council, by notification in the local official Gazette, extend this Act to the whole or any part of a military cantonment.

Power to withdraw local area from operation of Act.

5. The Local Government may, by notification in the official Gazette, withdraw any local area in a municipality or, [1][subject to the control] of the Governor General in Council, any local area in a cantonment, from the operation of this Act.

Prohibition of inoculation.

6. In any local area to which the provisions of this Act apply, inoculation shall be prohibited ; and

Inoculated persons not to enter, without certificate, local area subject to Act.

no person who has undergone inoculation shall enter such area before the lapse of forty days from the date of the operation, without a certificate from a medical practitioner, of such class as the Local Government may from time to time by written order authorize to grant such certificates, stating that such person is no longer likely to produce small-pox by contact or near approach.

Vaccination-circles.

7. Every local area to which this Act applies shall be a vaccination-circle ; or shall in manner hereinafter provided be divided into a number of such circles ;

Vaccinators.

one or more vaccinators shall be appointed in manner hereinafter provided for each such circle ; and

Superintendent of vaccination.

one or more Superintendents of vaccination shall be appointed in manner hereinafter provided for each such local area.

Private vaccinators.

8. The [2][Commissioner] may, by written license, authorize private vaccinators to perform vaccination in any vaccination-circle, and may suspend or cancel any such license.

Unprotected children to be vaccinated.

9. When any unprotected child, having attained the age of six months, has resided for a period of one month during the vaccination-season in any local area to which the provisions of this Act apply, and has not at the expiration of such period attained the age, if a boy, of fourteen years, and if a girl, of eight years, the parent or guardian of such child shall take it, or cause it to be taken, to a vaccinator to be vaccinated, or send for a vaccinator to vaccinate it.

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[1] Substituted for the words "with the previous sanction" by Act IV of 1914.
[2] Substituted for the words "Local Government" by Act IV of 1914.

Such vaccinator shall vaccinate the child and deliver to its parent or guardian a memorandum stating the date on which the vaccination has been performed and the date on which the child is to be inspected in order to ascertain the result of the operation, or shall, if he finds such child in a state unfit for vaccination, deliver to its parent or guardian a certificate under his hand to the effect that the child is in a state unfit for vaccination for the whole or part of the current vaccination season

Vaccinator to vaccinate children, or deliver certificate of postponement

10. The parent or guardian of every child which has been vaccinated under section 9 shall, on the date of inspection stated in the memorandum, take the child, or cause it to be taken, to a vaccinator for inspection, or get it inspected at his own house by a vaccinator, and

such vaccinator shall then append to the memorandum a certificate stating that the child has been inspected and the result of such inspection

Inspection after vaccination

11. When it is ascertained at the time of inspecting a child under section 10 that the vaccination has been successful, a certificate shall be delivered by the vaccinator to the parent or guardian of such child to that effect, and such child shall thereafter be deemed to be protected

Procedure when vaccination is successful

12. When it is ascertained as aforesaid that the vaccination has been unsuccessful, the parent or guardian shall, if the vaccinator so direct, cause the child to be forthwith again vaccinated and subsequently inspected in manner hereinbefore provided

Procedure when vaccination is unsuccessful

13. A certificate granted under section 9 showing the unfitness of a child for vaccination shall remain in force for the period stated therein, and on the termination of that period, or, if that period terminates after the vaccination season is over, when the next vaccination-season begins, the parent or guardian of such child shall take the child, or cause it to be taken, to a vaccinator to be vaccinated, or procure its vaccination at his own house by a vaccinator

Procedure when child is unfit for vaccination

Provided that, if the child is still found to be in a state unfit for vaccination, the certificate granted under section 9 shall be renewed

Renewal of postponement certificates.

14. If the Superintendent of vaccination is of opinion that a child which has been three times unsuccessfully vaccinated is insusceptible of successful vaccination, he shall deliver to the parent or guardian of such child a certificate under his hand to that effect, and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated

Certificate of insusceptibility of successful vaccination

15. The vaccination of a child shall ordinarily be performed with such lymph as may be prescribed by the rules to be made under this Act

What lymph to be used

Provided that,—

first, if animal-lymph is so prescribed and the parent or guardian of any child desires that such child shall be vaccinated with human lymph, it shall be so vaccinated, and

second, if in any local area in which animal-lymph is procurable human lymph is so prescribed, and the parent or guardian of any child desires that such child should be vaccinated with animal lymph

and tenders to the vaccinator the amount of such fee, not exceeding one rupee, as may be fixed by such rules in this behalf, such child shall be so vaccinated.

No fee to be charged except by private vaccinator.

16. No fee shall be charged by any vaccinator except a private vaccinator to the parent or guardian of any child for any of the duties imposed on such vaccinator by or under the provisions of this Act:

Proviso.

Provided that it shall be lawful for a vaccinator to accept a fee for vaccinating a child by request of the parent or guardian elsewhere than in the circle for which such vaccinator is appointed.

Duties of Superintendent of vaccination.

17. The Superintendent of vaccination, in addition to the other duties imposed on him by or under the provisions of this Act, shall ascertain whether all unprotected children, under the age of fourteen years, if boys, and under the age of eight years, if girls, within the local area under his superintendence have been vaccinated;

Notice to parent or guardian neglecting to comply with Act.

and, if he has reason to believe that the parent or guardian of any such child is bound by the provisions hereinbefore contained to procure the vaccination of such child or to present it for inspection, and has omitted so to do, he shall personally go to the house of such parent or guardian, and there make inquiry, and shall, if the fact is proved, forthwith deliver to such parent or guardian, or cause to be affixed to his house, a notice requiring that the child be vaccinated, or (as the case may be) that it be presented for inspection at a time and place to be specified in such notice.

Order by Magistrate when notice not complied with.

18. If such notice is not complied with, the Superintendent of vaccination shall report the matter to the Magistrate of the district, or such Magistrate as the Local Government or the Magistrate of the district may, from time to time, appoint in this behalf; and the Magistrate receiving such report shall summon the parent or guardian of the child and demand his explanation, and shall, if such explanation is not satisfactory, make an order in writing directing such parent or guardian to comply with the notice before a date specified in the order.

Procedure when order not obeyed.

If on such date the order has not been obeyed, the Magistrate shall summon the parent or guardian before him, and, unless just cause or excuse is shown, shall deal with the disobedience as an offence punishable under section 22.

Magistrates to be non-official Natives.

The Magistrate appointed under this section shall, as far as is conveniently practicable, be Natives of India, and not paid servants of the Government.

Power to make rules for municipalities.

19. When this Act has been applied to any municipality or any part thereof the Municipal Commissioners may, from time to time, make rules consistent with this Act for the proper enforcement of this Act within the limits to which it applies. Such rules shall be made in the manner in which, under the law for the time being in force, the [1][municipal] commissioners make rules or bye-laws for the regulation of other matters within the limits of the municipality,

[1]Inserted by Act IV of 1914.

and shall, when confirmed by the [1][Commissioner] and published in the official Gazette, have the force of law

Provided that the [1][Commissioner] may at any time rescind or modify any such rule

Power to make rules for cantonments

20. When this Act has been applied to any cantonment or any part thereof, the Local Government may from time to time, subject to the control of the Governor General in Council, make such rules

What rules under sections 19 and 20 may provide for

21. The rules to be made for any local area under section 19 or 20 may, among other matters, provide for—

(*a*) the division of such local area into circles for performance of vaccination,

(*b*) the appointment of a place in each vaccination circle as a public vaccine station, and the posting of some distinguishing mark in a conspicuous place near such station,

(*c*) the qualifications to be required of public vaccinators and Superintendents of vaccination,

(*d*) the authority with which their appointment, suspension and dismissal shall rest,

(*e*) the time of attendance of public vaccinators at the vaccine stations and their residence within the limits of the vaccination-circles,

(*f*) the distinguishing mark or badge to be worn by them,

(*g*) the amount of fee chargeable by private vaccinators, and their guidance generally in the performance of their duties,

(*h*) the facilities to be afforded to people for procuring the vaccination of their children at their own houses,

(*i*) the grant and form of certificates of successful vaccination, of unfitness for vaccination or of insusceptibility of vaccination,

(*j*) the nature of the lymph to be used and the supply of a sufficient quantity of such lymph,

(*k*) the fee to be paid for vaccination with animal lymph under section 15,

(*l*) the fee to be paid to a public vaccinator for vaccinating a child beyond the vaccination circle at the request of the parent or guardian of the said child,

(*m*) the preparation and keeping of registers showing—

the names of children born in such local area on or after the date of the application of this Act,

the names of unprotected children born in such local area previous to the application of this Act, and who are, at the time this Act is applied, under the age of fourteen years if boys, and of eight years, if girls,

the names of unprotected boys and girls respectively under those ages brought within such local area at any time after the application of this Act and who have resided there for a month,

[1] Substituted for the words "Local Government" by Act IV of 1914

the result of each vaccination or its postponement, and the delivery of certificates, if any;

(*n*) the assistance to be given by the Municipal Commissioners and Municipal servants in the preparation of these registers, and in other matters; and

(*o*) the preparation of vaccination reports and returns.

Punishment of offences.

22. Whoever commits any of the undermentioned offences (that is to say):—

(*a*) violates the provisions of section 6,

(*b*) neglects without just excuse to obey an order made under section 18,

(*c*) breaks any of the rules made under section 19 or 20, or

(*d*) neglects without just cause to obey an order made under section 18 after having been previously convicted of so neglecting to obey a similar order made in respect of the same child,

shall be punished as follows (that is to say):—

in the case of the offence mentioned in clause (*a*), with simple imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both;

in the case of the offences mentioned in clauses (*b*) and (*c*), with fine which may extend to fifty rupees; and

in the case of the offence mentioned in clause (*d*), with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Municipal funds to receive fines and meet expenditure.

23. The amount of all fees and fines realized, and the amount of all expenditure incurred, under this Act in any municipality, shall respectively be credited to and paid from the municipal fund.

ACT 3 OF 1886.

(The Northern India Ferries Act Amendment Act, 1878.[1])

[29th January, 1886.]

An Act to amend the Northern India Ferries Act, 1878.[2]

Whereas it is expedient to amend the Northern India Ferries Act, 1878; [2] XVII

It is hereby enacted as follows:—

Substitution of new section for section 8, and amendment of sections 12 and 15.

1. (*1*) For section 8 the following shall be substituted, namely:—

8. [*Printed ante, p. 94.*]

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[1] Short Title.—This short title was given by the Amending Act, 1897 (V of 1897), Sch. III—*see post.* The figures "1878" should be "1886".

Legislative Papers.—For Statement of Objects and Reasons, *see* Gazette of India, 1885, Pt. V, p. 227; and for Proceedings in Council, *see ibid*, Supplement, p. 1257; *ibid*, 1886, Supplement, p. 224.

Local Extent.—This Act, like the Act (XVII of 1878—printed *ante*) which it amends, extends to Assam, except the Lushai Hills.

[2] Printed *ante*.

(2) For section 12, clause (b), the following shall be substituted namely —

(b) [*Printed ante, p 95*]

(3) In the third paragraph of section 15, for the word "auction" the word "lease" shall be substituted

2. (1) For the first paragraph of section 13 the following shall be substituted, namely — Amendment of section 13, and substitution of new section for section 26.

[*Printed ante, p. 95*]

(2) In the second proviso to the said section, after the word "boats" the words "which do not ply for hire or" shall be inserted

(3) For section 26 the following shall be substituted, namely —

26 [*Printed ante, p 98*]

ACT 12 OF 1887

(THE BENGAL, AGRA AND ASSAM CIVIL COURTS ACT, 1887)

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ACT 12 OF 1887

(THE BENGAL, AGRA AND ASSAM CIVIL COURTS ACT, 1887 [1])

[*11th March, 1887.*]

An Act to consolidate and amend the law relating to Civil Courts in Bengal, [2][the North-Western Provinces] and Assam.

WHEREAS it is expedient to consolidate and amend the law relating to Civil Courts in Bengal,[2] [the North Western Provinces] and Assam, It is hereby enacted as follows —

CHAPTER I

PRELIMINARY

1. (*1*) This Act may be called the Bengal, [2] [Agra] and Assam Civil Courts Act, 1887 *Title, extent and commencement.*

(*2*) It extends to the territories for the time being respectively administered by the Lieutenant Governor of Bengal, the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Assam except such portions of those territories as for the time being are not subject to the ordinary civil jurisdiction of the High Courts, * * * * [3] and

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[1] The application of the Act is barred—
in the Lushai Hills, by notification—*see* Vol II, Appendix II, Table D
[2] Substituted for the words "North Western Provinces" by the Bengal, Agra and Assam Civil Courts (Amendment) Act, 1911 s 2, *post*
[3] The words "and except the Jhansi Division," in s 1 (2), which were repealed by the North-Western Provinces and Oudh Act, 1890 (XX of 1890), s 9 (1), are omitted.

(3) It shall come into force on the first day of July, 1887.

2. (1) [*Repeal of Acts 6 of 1871 and 19 of 1877.*] *Rep. by the Repealing and Amending Act, 1891 (12 of 1891).*

Saving.

(2) * * [1] all Courts constituted, appointments, nominations, rules and orders made, jurisdiction and powers conferred and lists published under the Bengal Civil Courts Act, 1871,[2] or any enactment thereby repealed, or purporting expressly or impliedly to have been so constituted, made, conferred and published shall be deemed to have been respectively constituted, made, conferred and published under this Act; and

(3) Any enactment or document referring to the Bengal Civil Courts Act, 1871,[2] or to any enactment thereby repealed, shall be construed to refer to this Act or to the corresponding portion thereof.

CHAPTER II.

CONSTITUTION OF CIVIL COURTS.

Classes of Courts.

3. There shall be the following classes of Civil Courts under this Act, namely :—

(1) the Court of the District Judge;
(2) the Court of the Additional Judge;
(3) the Court of the Subordinate Judge; and
(4) the Court of the Munsif.

Number of District Judges, Subordinate Judges and Munsifs.

[3]**4.** The Local Government may alter the number of Subordinate Judges and Munsifs now fixed and, with the previous sanction of the Governor General in Council, the number of District Judges.

5. [*Number of Munsifs.*] *Rep. by the Decentralization Act, 1914 (4 of 1914).*

Vacancies among District or Subordinate Judges.

6. (1) Whenever the office of District Judge or Subordinate Judge is vacant by reason of the death, resignation or removal of the Judge or other cause, or whenever [4][an increase in the number of District or Subordinate Judges has been made under the provisions of section 4], the Local Government may fill up the vacancy or appoint the Additional District Judges or Subordinate Judges, as the case may be.

(2) Nothing in this section shall be construed to prevent a Local Government from appointing a District Judge or Subordinate Judge to discharge for such period as it thinks fit in addition to the functions devolving on him as

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[1] The word "But," in s. 2, sub-s. (2), which was repealed by the Repealing and Amending Act, 1891 (XII of 1891), is omitted.

[2] Ben. Act VI of 1871 was repealed by s. 2 (1) of the present Act.

[3] Substituted by Act IV of 1914 for the original section, which ran as follows:—

"4. The Local Government may, with the previous sanction of the Governor-General in Council, increase or reduce the number of District Judges and Subordinate Judges now fixed."

[4] Substituted for the words "the Governor General in Council has sanctioned an increase of the number of District Judges or Subordinate Judges" by Act IV of 1914.

such District Judge or Subordinate Judge, all or any of the functions of another District Judge or Subordinate Judge, as the case may be

Vacancies among Munsifs

7. (*1*) Whenever the office of Munsif is vacant, or whenever the Local Government increases the number of Munsifs, the High Court shall nominate such person as it thinks fit to be a Munsif, and the Local Government shall appoint him accordingly

(*2*) The Local Government may, after consultation with the High Court and [1][subject to the control] of the Governor General in Council, make rules as to the qualifications of persons to be appointed to the office of Munsif

(*3*) When rules have been made under sub section (*2*), a person shall not be nominated under sub section (*1*) unless he possesses the qualifications required by the rules

Additional Judges

8. (*1*) When the business pending before any District Judge requires the aid of Additional Judges for its speedy disposal, the Local Government may, upon the recommendation of the High Court [2] * * * * * * appoint such Additional Judges as may be requisite

(*2*) Additional Judges so appointed shall discharge any of the functions of a District Judge which the District Judge may assign to them, and, in the discharge of those functions, they shall exercise the same powers as the District Judge

Administrative control of Courts

9. Subject to the superintendence of the High Court, the District Judge shall have administrative control over all the Civil Courts under this Act within the local limits of his jurisdiction

Temporary charge of District Court

10. (*1*) In the event of the death, resignation or removal of the District Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the place at which his Court is held the Additional Judge, or, if an Additional Judge is not present at that place, the senior Subordinate Judge present thereat, shall, without relinquishing his ordinary duties, assume charge of the office of the District Judge and shall continue in charge thereof until the office is resumed by the District Judge or assumed by an officer appointed thereto

(*2*) While in charge of the office of the District Judge, the Additional Judge or Subordinate Judge, as the case may be, may, subject to any rules which the High Court may make in this behalf, exercise any of the powers of the District Judge

Transfer of proceedings on vacation of office of Subordinate Judge.

11. (*1*) In the event of the death, resignation or removal of a Subordinate Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the place at which his Court is held, the District Judge may transfer all or any of the proceedings pending in the Court of the Subordinate Judge either to his own Court or to any Court under his administrative control competent to dispose of them.

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[1] Substituted for the words "with the previous sanction" by Act IV of 1914

[2] The words "and with the previous sanction of the Governor General in Council" were repealed by the Bengal, Agra and Assam Civil Courts (Amendment) Act, 1911 (XVI of 1911) s 3, *post*

(2) Proceedings transferred under sub-section (1) shall be disposed of as if they had been instituted in the Court to which they are so transferred:

(3) Provided that the District Judge may retransfer to the Court of the Subordinate Judge or his successor any proceedings transferred under sub-section (1) to his own or any other Court.

(4) For the purposes of proceedings which are not pending in the Court of the Subordinate Judge on the occurrence of an event referred to in sub-section (1), and with respect to which that Court has exclusive jurisdiction, the District Judge may exercise all or any of the jurisdiction of that Court.

Temporary charge of office of Munsif.

12. (1) A District Judge, on the occurrence within the local limits of his jurisdiction of any vacancy in the office of Munsif, may appoint such person as he thinks fit to act in the office until that person is relieved by a Munsif appointed under section 7, or his appointment is cancelled by the District Judge.

(2) The District Judge shall forthwith report to the High Court the occurrence of every such vacancy and the making and cancelling of every such appointment.

Power to fix local limits of jurisdiction of Courts.

13. (1) The Local Government may, by notification in the official Gazette, fix and alter the local limits of the jurisdiction of any Civil Court under this Act.

(2) If the same local jurisdiction is assigned to two or more Subordinate Judges or to two or more Munsifs, the District Judge may assign to each of them such civil business cognizable by the Subordinate Judge or Munsifs, as the case may be, as subject to any general or special orders of the High Court, he thinks fit.

(3) When civil business arising in any local area is assigned by the District Judge under sub-section (2) to one of two or more Subordinate Judges or to one of two or more Munsifs, a decree or order passed by the Subordinate Judge or Munsif shall not be invalid by reason only of the case in which it was made having arisen wholly or in part in a place beyond the local area if that place is within the local limits fixed by the Local Government under sub-section (1).

(4) A Judge of a Court of Small Causes appointed to be also a Subordinate Judge or Munsif is a Subordinate Judge or Munsif, as the case may be, within the meaning of this section.

(5) The present local limits of the jurisdiction of every Civil Court under this Act shall be deemed to have been fixed under this section.

Place of sitting of Courts.

14. (1) The Local Government may, by notification in the official Gazette, fix and alter the place or places at which any Court under this Act is to be held.

(2) All places at which any such Courts are now held shall be deemed to have been fixed under this section.

Vacations of Courts.

15. (1) Subject to such orders as may be made by the Governor General in Council, the High Court shall prepare a list of days to be observed in each year as closed holidays in the Civil Courts.

(2) The list shall be published in the local official Gazette.

(3) A judicial act done by a Civil Court on a day specified in the list shall not be invalid by reason only of its having been done on that day

16. *Seals of Courts* Every Civil Court under this Act shall use a seal of such form and dimensions as are prescribed by the Local Government

17. *Continuance of proceedings of Courts ceasing to have jurisdiction* (1) Where any Civil Court under this Act has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to that case which, if that Court had not ceased to have jurisdiction, might have been had therein may be had in the Court to which the business of the former Court has been transferred

(2) Nothing in this section applies to cases for which provision is made in
32 section 623 or section 649 of the Code of Civil Procedure [1] or in any other enactment for the time being in force

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CHAPTER III

ORDINARY JURISDICTION

18. *Extent of original jurisdiction of District or Subordinate Judge* Save as otherwise provided by any enactment for the time being in force, the jurisdiction of a District Judge or Subordinate Judge extends, sub
82 ject to the provisions of section 15 of the Code of Civil Procedure,[1] to all original suits for the time being cognizable by Civil Courts

19. *Extent of jurisdiction of Munsif* (1) Save as aforesaid, and subject to the provisions of sub section (2) the jurisdiction of a Munsif extends to all like suits of which the value does not exceed one thousand rupees

(2) The Local Government may, on the recommendation of the High Court, direct by notification in the official Gazette, with respect to any Munsif named therein, that his jurisdiction shall extend to all like suits of such value not exceeding two thousand rupees as may be specified in the notification

[2][Provided that the Local Government may, by notification in the local official gazette, delegate to the High Court its powers under this section]

20. *Appeals from District and Additional Judges* (1) Save as otherwise provided by any enactment for the time being in force, an appeal from a decree or order of a District Judge or Additional Judge shall lie to the High Court

(2) An appeal shall not lie to the High Court from a decree or order of an Additional Judge in any case in which, if the decree or order had been made by the District Judge, an appeal would not lie to that Court

21. (1) Save as aforesaid, an appeal from a decree or order of a Subordinate
ate Judge shall lie—
nd (a) to the District Judge where the value of the original suit in which or in any proceeding arising out of which the decree or order was made did not exceed five thousand rupees, and

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[1] See now the Code of Civil Procedure 1908 (Act V of 1908) Genl. Acts, Vol. VI

[2] Added by Act IV of 1914

(b) to the High Court in any other case.

(2) Save as aforesaid, an appeal from a decree or order of a Munsif shall lie to the District Judge.

(3) Where the function of receiving any appeals which lie to the District Judge under sub-section (1) or sub-section (2) has been assigned to an Additional Judge, the appeals may be preferred to the Additional Judge.

(4) The High Court may, with the previous sanction of the Local Government, direct, by notification in the official Gazette, that appeals lying to the District Judge under sub-section (2) from all or any of the decrees or orders of any Munsif shall be preferred to the Court of such Subordinate Judge as may be mentioned in the notification, and the appeals shall thereupon be preferred accordingly.

CHAPTER IV.

Special Jurisdiction.

wer to nsfer to oordinate lges oeals from nsifs.

22. (1) A District Judge may transfer to any Subordinate Judge under his administrative control any appeals pending before him from the decrees or orders of Munsifs.

(2) The District Judge may withdraw any appeal so transferred, and either hear and dispose of it himself or transfer it to a Court under his administrative control competent to dispose of it.

(3) Appeals transferred under this section shall be disposed of subject to the rules applicable to like appeals when disposed of by the District Judge.

ercise by oordinate lge or nsif of sdiction District rt in ain proceedings.

23. (1) The High Court may, by general or special order, authorize any Subordinate Judge or Munsif to take cognizance of, or any District Judge to transfer to a Subordinate Judge or Munsif under his administrative control, any of the proceedings next hereinafter mentioned or any class of those proceedings specified in the order.

(2) The proceedings referred to in sub-section (1) are the following, namely :—

(a) proceedings under Bengal Regulation 5, 1799 [1] (*to limit the Interference of the Zila and City Courts of Diwani Adalat in the Execution of Wills and Administration to the Estates of persons dying intestate*);

[2] * * * * * * * * * * *

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[1] The Bengal Wills and Intestacy Regulation, 1799, *ante*.

[2] Clause (b) [which referred to proceedings under Act XL of 1858 (Minors) or Act IX of 1861 (Minors)] and clause (c) [which referred to applications for certificates under Act XXVII of 1860 (Succession)] were repealed by the Guardians and Wards Act, 1890 (VIII of 1890—printed in Genl. Acts, Vol. IV) and the Succession Certificate Act, 1889 (VII of 1889—printed in *ibid*) respectively, and are omitted.

(*d*) proceedings under the Indian Succession Act, 1865,[1] and the Probate and Administration Act 1881 [2] which cannot be disposed of by District Delegates , and

82 (*e*) references by Collectors under section 322C of the Code of Civil Procedure [3]

(*3*) The District Judge may withdraw any such proceedings taken cognizance of by, or transferred to, a Subordinate Judge or Munsif and may either himself dispose of them or transfer them to a Court under his administrative control competent to dispose of them

Disposal of proceedings referred to in last fore going section[4]

24. (*1*) Proceedings taken cognizance of by, or transferred to a Subordinate Judge or Munsif as the case may be, under the last foregoing section shall be disposed of by him subject to the rules applicable to like proceedings when disposed of by the District Judge

Provided that an appeal from an order of a Munsif in any such proceedings shall lie to the District Judge

(*2*) An appeal from the order of the District Judge on the appeal from the order of the Munsif under this section shall lie to the High Court if a further appeal from the order of the District Judge is allowed by the law for the time being in force

Power to invest Subordinate Judges and Munsifs with Small Cause Court jurisdiction

25. The Local Government may by notification in the official Gazette confer within such local limits as it thinks fit upon any Subordinate Judge or Munsif the jurisdiction of a Judge of a Court of Small Causes under the
37 Provincial Small Cause Courts Act 1887,[4] for the trial of suits cognizable by such Courts up to such value not exceeding five hundred rupees in the case of a Subordinate Judge or [5][two hundred and fifty rupees] in the case of a Munsif as it thinks fit and may withdraw any jurisdiction so conferred

[6][Provided that the Local Government may, by notification in the local official gazette, delegate to the High Court its powers under this section]

CHAPTER V

MISFEASANCE

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26. Any District Judge Additional Judge Subordinate Judge or Munsif may, for any misconduct, be suspended or removed by the Local Government

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[1] Printed in Genl. Acts Vol I
[2] Printed in Genl Acts Vol III
[3] See now the Code of Civil Procedure 1908 (Act V of 1908) Genl Acts Vol VI
[4] Printed in Genl Acts Vol IV
[5] Substituted for the words one hundred rupees by the Bengal, Agra and Assam Civil Courts (Amendment) Act 1911 (XVI of 1911) s 4 *post*
[6] Added by the Decentralization Act 1914 (IV of 1914) S h.

Suspension of Subordinate Judge by High Court.

27. (*1*) The High Court may, whenever it sees urgent necessity for so doing, suspend a Subordinate Judge.

(*2*) Whenever the High Court suspends a Subordinate Judge under sub-section (*1*), it shall forthwith report to the Local Government the circumstances of the suspension, and the Local Government shall make such order with respect thereto as it thinks fit.

Suspension or removal of Munsif by High Court.

28. (*1*) The High Court may appoint a commission for inquiring into alleged misconduct of a Munsif.

(*2*) On receiving the report of the result of the inquiry, the High Court may, if it thinks fit, remove or suspend the Munsif.

(*3*) The provisions of Act No. 37 of 1850[1] (*for regulating Inquiries into the behaviour of Public Servants*) shall apply to inquiries under this section, the powers conferred by that Act on the Government being exercised by the High Court.

(*4*) The High Court may, before appointing the commission, suspend the Munsif pending the result of the inquiry.

(*5*) The High Court may, without appointing a commission, remove or suspend a Munsif.

Suspension of Munsif by District Judge.

29. (*1*) A District Judge may, whenever he sees urgent necessity for so doing, suspend a Munsif under his administrative control.

(*2*) Whenever a District Judge suspends a Munsif under sub-section (*1*), he shall forthwith report to the High Court the circumstances of the suspension, and the High Court shall make such order with respect thereto as it thinks fit.

CHAPTER VI.

Ministerial Officers.

Appointment and removal of ministerial officers of District Courts.

30. District Judges shall appoint the ministerial officers of their Courts and, subject only to the control of the Local Government, may remove or suspend those officers or fine them in an amount not exceeding one month's salary.

Appointment and removal of ministerial officers of other Courts.

31. (*1*) The ministerial officers of the Civil Courts subject to the administrative control of the District Judge shall be appointed—

(*a*) in the case of an appointment not likely to last, and not lasting longer than, two months, by those Courts, and

(*b*) in any other case, by the District Judge.

(*2*) An Additional Judge, Subordinate Judge or Munsif may, by order, remove or suspend, or fine in an amount not exceeding one month's salary, any ministerial officer of his Court who is guilty of misconduct or neglect in the performance of the duties of his office.

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[1] The Public Servants (Inquiries) Act, 1850. It is printed in Genl. Acts, Vol. I.

32. The provisions of the two last foregoing sections shall be subject to the following modifications in their application to ministerial officers employed by more Civil Courts than one, namely — Appointment and removal of ministerial officers on joint establishments

(a) appointments not likely to last, and not lasting, longer than two months shall be made by the Court of the highest class among those Courts, or, where there is no difference in class among those Courts, by the senior among the presiding Judges thereof, and

(b) such ministerial officers may not be removed or suspended by any Court except the Court which under clause (a) of this section is for the time being charged with the duty of making appointments to fill temporary vacancies

33. The District Judge, subject only to the control of the Local Government, may, by order, suspend or remove any ministerial officer to whom section 31 or section 32 applies and may, on appeal or otherwise, reverse or modify any order made under either of those sections by any Court under his administrative control General powers of District Judge

34. (1) The Local Government may, at the instance of the High Court or of a District Judge, transfer a ministerial officer from any Civil Court under this Act to any other such Court Transfer of ministerial officers

[1][Provided that the Local Government may, by notification in the local official gazette, delegate to the High Court its powers under this section]

(2) The District Judge may transfer a ministerial officer from any such Court within the local limits of his jurisdiction to any other such Court within those limits

35. Any fine imposed under this Chapter may be recovered by deduction from the salary of the person fined Recovery of fines

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CHAPTER VII

Supplemental Provisions

36. (1) The Local Government may invest with the powers of any Civil Court under this Act, by name or in virtue of office,— Power to confer powers of Civil Courts on officers

(a) any officer in the Chota Nagpur,[2] [Sambalpur,] Jalpaiguri or Darjeeling district, or in any part of the territories administered by the Chief Commissioner of Assam except the district of Sylhet, or,

(b) after consultation with the High Court, any officer serving in any other part of the territories to which this Act extends and belonging to a class defined in this behalf by the Local Government with the previous sanction of the Governor General in Council

(2) Nothing in sections 4 to 8 (both inclusive) or sections 10 to 12 (both inclusive) or sections 27 to 35 (both inclusive) applies to any officer so in-

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[1] Added by the Decentralization Act 1914 (IV of 1914) Sch

[2] The word "Sambalpur" was inserted by the Sambalpur Civil Courts Act, 1906 (Ben. Act IV of 1906) s 6

Suspension of Subordinate Judge by High Court.

27. (*1*) The High Court may, whenever it sees urgent necessity for so doing, suspend a Subordinate Judge.

(*2*) Whenever the High Court suspends a Subordinate Judge under sub-section (*1*), it shall forthwith report to the Local Government the circumstances of the suspension, and the Local Government shall make such order with respect thereto as it thinks fit.

Suspension or removal of Munsif by High Court.

28. (*1*) The High Court may appoint a commission for inquiring into alleged misconduct of a Munsif.

(*2*) On receiving the report of the result of the inquiry, the High Court may, if it thinks fit, remove or suspend the Munsif.

(*3*) The provisions of Act No. 37 of 1850[1] (*for regulating Inquiries into the behaviour of Public Servants*) shall apply to inquiries under this section, the powers conferred by that Act on the Government being exercised by the High Court.

(*4*) The High Court may, before appointing the commission, suspend the Munsif pending the result of the inquiry.

(*5*) The High Court may, without appointing a commission, remove or suspend a Munsif.

Suspension of Munsif by District Judge.

29. (*1*) A District Judge may, whenever he sees urgent necessity for so doing, suspend a Munsif under his administrative control.

(*2*) Whenever a District Judge suspends a Munsif under sub-section (*1*), he shall forthwith report to the High Court the circumstances of the suspension, and the High Court shall make such order with respect thereto as it thinks fit.

CHAPTER VI.

Ministerial Officers.

Appointment and removal of ministerial officers of District Courts.

30. District Judges shall appoint the ministerial officers of their Courts and, subject only to the control of the Local Government, may remove or suspend those officers or fine them in an amount not exceeding one month's salary.

Appointment and removal of ministerial officers of other Courts.

31. (*1*) The ministerial officers of the Civil Courts subject to the administrative control of the District Judge shall be appointed—

(*a*) in the case of an appointment not likely to last, and not lasting longer than, two months, by those Courts, and

(*b*) in any other case, by the District Judge.

(*2*) An Additional Judge, Subordinate Judge or Munsif may, by order, remove or suspend, or fine in an amount not exceeding one month's salary, any ministerial officer of his Court who is guilty of misconduct or neglect in the performance of the duties of his office.

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[1] The Public Servants (Inquiries) Act, 1850. It is printed in Genl. Acts, Vol. I.

32. The provisions of the two last foregoing sections shall be subject to the following modifications in their application to ministerial officers employed by more Civil Courts than one, namely — Appointment and removal of ministerial officers on joint establishments

(*a*) appointments not likely to last, and not lasting longer than two months shall be made by the Court of the highest class among those Courts, or, where there is no difference in class among those Courts, by the senior among the presiding Judges thereof, and

(*b*) such ministerial officers may not be removed or suspended by any Court except the Court which under clause (*a*) of this section is for the time being charged with the duty of making appointments to fill temporary vacancies

33. The District Judge, subject only to the control of the Local Government, may, by order, suspend or remove any ministerial officer to whom section 31 or section 32 applies, and may, on appeal or otherwise reverse or modify any order made under either of those sections by any Court under his administrative control General powers of District Judge

34. (*1*) The Local Government may, at the instance of the High Court or of a District Judge, transfer a ministerial officer from any Civil Court under this Act to any other such Court Transfer of ministerial officers

[1][Provided that the Local Government may, by notification in the local official gazette, delegate to the High Court its powers under this section]

(*2*) The District Judge may transfer a ministerial officer from any such Court within the local limits of his jurisdiction to any other such Court within those limits

35. Any fine imposed under this Chapter may be recovered by deduction from the salary of the person fined Recovery of fines

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CHAPTER VII

SUPPLEMENTAL PROVISIONS

36. (*1*) The Local Government may invest with the powers of any Civil Court under this Act by name or in virtue of office — Power to confer powers of Civil Courts on officers

(*a*) any officer in the Chota Nagpur,[2] [Sambalpur,] Jalpaiguri or Darjeeling district, or in any part of the territories administered by the Chief Commissioner of Assam except the district of Sylhet, or,

(*b*) after consultation with the High Court, any officer serving in any other part of the territories to which this Act extends and belonging to a class defined in this behalf by the Local Government with the previous sanction of the Governor General in Council

(*2*) Nothing in sections 4 to 8 (both inclusive) or sections 10 to 12 (both inclusive) or sections 27 to 35 (both inclusive) applies to any officer so in-

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[1] Added by the Decentralization Act 1914 (IV of 1914) Sch

[2] The word Sambalpur was inserted by the Sambalpur Civil Courts Act, 1906 (Ben. Act IV of 1906) s 6

vested, but all the other provisions of this Act shall, so far as those provisions can be made applicable, apply to him as if he were a Judge of the Court with the powers of which he is invested.

(3) Where, in the territories mentioned in clause (a) of sub-section (1), the same local jurisdiction is assigned to two or more officers invested with the powers of a Munsif, the officer invested with the powers of a District Judge may, with the previous sanction of the Local Government, delegate his functions under sub-section (2) of section 13 to an officer invested with the powers of a Subordinate Judge or to one of the officers invested with the powers of a Munsif.

(4) Where the place at which the Court of an officer invested with powers under sub-section (1) is to be held has not been fixed under section 14, the Court may be held at any place within the local limits of its jurisdiction.

Certain decisions to be according to Native law.

37. (1) Where in any suit or other proceeding it is necessary for a Civil Court to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution, the Muhammadan law in cases where the parties are Muhammadans, and the Hindu law in cases where the parties are Hindus, shall form the rule of decision, except in so far as such law has, by legislative enactment, been altered or abolished.

(2) In cases not provided for by sub-section (1) or by any other law for the time being in force, the Court shall act according to justice, equity and good conscience.

Judges not to try suits in which they are interested.

38. (1) The presiding officer of a Civil Court shall not try any suit or other proceeding to which he is a party or in which he is personally interested.

(2) The presiding officer of an appellate Civil Court under this Act shall not try an appeal against a decree or order passed by himself in another capacity.

(3) When any such suit, proceeding or appeal as is referred to in sub-section (1) or sub-section (2) comes before any such officer, the officer shall forthwith transmit the record of the case to the Court to which he is immediately subordinate, with a report of the circumstances attending the reference.

(4) The superior Court shall thereupon dispose of the case under section 25 of the Code of Civil Procedure.[1] XIV

(5) Nothing in this section shall be deemed to affect the extraordinary original civil jurisdiction of the High Court.

Subordination of Courts to District Court.

39. For the purposes of the last foregoing section, the presiding officer of a Court subject to the administrative control of the District Judge shall be deemed to be immediately subordinate to the Court of the District Judge, and, for the purposes of the Code of Civil Procedure,[1] the Court of such an officer XIV shall be deemed to be of a grade inferior to that of the Court of the District Judge.

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[1] See now the Code of Civil Procedure, 1908 (Act V of 1908), Genl. Acts, Vol. VI.

40. (1) This section and sections 15, 32, 37, 38 and 39 apply to Courts of Small Causes constituted under the Provincial Small Cause Courts Act, 1887 [1] Application of Act to Provincial Courts of Small Causes

(2) Save as provided by that Act, the other sections of this Act do not apply to those Courts

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ACT 4 OF 1892

[THE COURT OF WARDS ACT (BENGAL) AMENDMENT ACT, 1892 [2]]

[25th March, 1892]

An Act to amend the Bengal Court of Wards Act, 1879 [3]

WHEREAS it is expedient to amend the Court of Wards Act, 1879,[3] passed by the Lieutenant-Governor of Bengal in Council, It is hereby enacted as follows —

1. (1) This Act shall be read with, and taken as part of, the Act aforesaid; Construction.

[Commencement] *Rep by the Repealing and Amending Act, 1903 (1 of 1903)*]

2. In section 3, at the end of the clause defining "estate" the following words shall be added, namely —"and includes a share in or of an estate other than an undivided share held in coparcenary as the property of a Hindu joint family governed by the *Mitakshara or Mithila* law" Addition to section 3

3. To section 6 the following clause shall be added, namely — Addition to section 6

(e) [*Printed as part of Ben Act 9 of 1879, post*]

4. To section 7 the following proviso shall be added, namely — Addition to section 7

[*Printed as part of Ben Act 9 of 1879, post*]

5. At the end of section 9 the following shall be added, namely — Addition to section 9

[*The matter added to section 9 by this section has since been repealed by the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1907 (E B and A Act 3 of 1907), section 2 (1), printed post*]

6. In section 10, in the place of the first two clauses the following shall be inserted, namely — Amendment of section 10

[*Printed as part of Ben Act 9 of 1879, post*]

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[1] Genl Acts, Vol IV

[2] SHORT TITLE.—This short title was given by the Amending Act, 1897 (V of 1897), Sch III—see post

LEGISLATIVE PAPERS —For Statement of Objects and Reasons see Gazette of India 1892,

... barred in the Lushai Hills, by notification—see Vol. II, Appendix II, Table D

[3] Printed post

Substitution of new section 11. **7.** For section 11 the following section shall be substituted, namely :— [*Printed as part of Ben. Act 9 of 1879, in Vol. II of this Code.*]

Amendment of section 12. **8.** In section 12, for the words "which before the commencement of this Act was placed," the following words shall be substituted, namely :— "which either before or after the commencement of this Act was or is placed" ; and at the end of the first clause, after the figures 1858, the following words shall be added, namely :—"or under any other enactment for the time being in force."

9. [*Repeal of proviso in Class III, section 48.*] *Rep. by the Repealing and Amending Act, 1897* (*5 of 1897*).

Amendment of section 49. **10.** In section 49, for the words "remains under the charge of the Court with his consent under section 11," the following words shall be substituted, namely :— "is under the charge of the Court under clause (*e*) of section 6, or under the second clause of section 11."

Amendment of section 56. [1] **11.** [*In section 56, instead of the words "who has consented to leave his property under the charge of the Court of Wards, as provided in the second clause of section 11," the following words shall be substituted, namely :—*
"*whose property is under the charge of the Court under clause* (*e*) *of section 6, or under the second clause of section 11.*"]

Addition to section 60. **12.** To section 60 the following words shall be added, namely :—"or to assign over or charge any allowance to be received by him from the Court."

Insertion of new section after section 60. **13.** After section 60 the following section shall be inserted, namely:—60A. [*Printed as part of Ben. Act 9 of 1879, in Vol. II of this Code.*]

ACT 5 OF 1897.

(The Amending Act, 1897.[2])

[*25th February, 1897.*]

An Act * * * [3] to amend and facilitate the citation of certain * * [4] enactments.

* * * * * * *[5]

* * whereas it is * [5] expedient that certain formal amendments should be made in the enactments specified in the second schedule to this Act ;

And whereas it is also expedient to facilitate the citation of the enactments specified in the third schedule to this Act ;

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[1] Section 11 has virtually been repealed by the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1907 (E. B. and A. Act III of 1907), s. 8 ; *see post.*

[2] Legislative Papers.—For Statement of Objects and Reasons, *see* Gazette of India, 1897, Pt. V, p. 50 ; and for Proceedings in Council, *see ibid*, Pt. VI, pp. 41 and 44.

Local Extent.—The application of the Act is barred in the Lushai Hills, by notification —*see* Vol. II, Appendix II, Table D.

[3] The words "to repeal certain obsolete enactments and" in the title, which were repealed by the Repealing and Amending Act, 1903 (I of 1903), are omitted.

[4] The word "other," in the title, which was repealed by the same Act, is omitted.

[5] Portions of the preamble which were repealed by the same Act are omitted.

It is hereby enacted as follows :—

1. (*1*) This Act may be called the * *[1] Amending Act, 1897 ; [2]* * Title

2. (*1*) [*Repeals*] *Rep by the Repealing and Amending Act, 1903* (*1 of 1903*).

(*2*) The enactments specified in the second schedule shall be modified to the extent and in the manner mentioned in the fourth column thereof Enactments in second schedule amended

3. [*Savings*] *Rep by the Repealing and Amending Act, 1903* (*1 of 1903*)

4. Each of the enactments described in the first three columns of the third schedule may, without prejudice to any other mode of citation, be cited for all purposes by the short title mentioned in that behalf in the fourth column thereof Citation of certain enactments

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THE FIRST SCHEDULE

[*Rep. by the Repealing and Amending Act, 1903* (*1 of 1903*)]

THE SECOND SCHEDULE.

1	2	3	4
Year.	No	Short title or subject	Amendment
Part I.—Act of the Governor-General in Council			
*	*	*	* * *[3]
Part II.—Acts of the Lieutenant-Governor of Bengal in Council.			
*	*	*	* * *
*	*	*	* * *[4]
1884	3[5]	Bengal Municipal Act, 1884	[illegible] Act, [illegible] In section 219 (as amended by Bengal Act 4 of 1894 section 64) *for* or two hundred and ten two hundred and ten A *read* 210 or 210A

[1] The words "Repealing and," in s 1 (*1*), which were repealed by the Repealing and Amending Act, 1903 (I of 1903) are omitted

[2] The word and" and sub-section (2) were repealed by the Repealing and Amending Act [illegible]

[3] [illegible]

[4] [illegible]

[5] [illegible]

THE SECOND SCHEDULE—*continued.*

1	2	3	4
Year.	No.	Short title or subject.	Amendment.
1887	2[1]	Vaccination (Amending Bengal Act 5 of 1880).	To section 3 *add* :— "The Schedule hereto annexed shall be annexed as the First Schedule to the Bengal Vaccination Act, 1880."
*	*	* *	* * *[2]

Part III.—Regulations made under the Government of India Act, 1870. (33 Vict., Cap. 3).

1883	1[1]	Sylhet and Cachar Rural Police Regulation, 1883.	In section 18, clause 10th, *for* the Indian Forest Act, 1878, *read* the Assam Forest Regulation, 1891.
1886	1[1]	Assam Land and Revenue Regulation, 1886.	To section 1 *add* :— "(3) The Chief Commissioner may in like manner amend, vary or rescind any notification issued under sub-section (2)."

Part IV.—Regulations of the Bengal Code.

1806	11[3]	Passage of troops . .	In section 4, clause third, *for* Governor General in Council, *in each place in which those words occur, read* Local Government.
1812	11[4]	Removal of Foreign Immigrants.	In section 5, clause second, *for* to the Nizamut Adalat, who will recommend to the Governor General in Council such alleviation of the prescribed punishment as they may judge proper, *read* to the Local Government, and the Local Government shall pass such orders thereon as it may think fit. *For* Governor General in Council, wherever those words occur, *read* Local Government.
1823	7[5]	Loans to Covenanted Officers.	In section 3, *for the words from* All Judges *to* powers of such Collector, *read* All Commissioners, District and Sessions Judges, Deputy Commissioners and Assistant Commissioners, being members of the Indian Civil Service. In section 6 and also in section 8, *for* Governor General in Council, *read* Local Government. In section 8, *for* Government, *read* the Local Government.

[1] Printed *post.*

[2] The entries relating to Act I of 1882 (the Assam Labour and Emigration Act, 1882) and Bengal Act I of 1889 (the Inland Emigrants' Health Act, 1889) are omitted, as having been repealed by the Assam Labour and Emigration Act, 1901 (VI of 1901).

[3] The Bengal Troops Transport and Travellers' Assistance Regulation, 1806. It is printed *ante.*

[4] The Bengal Foreign Immigrants Regulation, 1812. It is printed *ante.*

[5] The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1823. It is printed *ante.*

THE THIRD SCHEDULE

1	2	3	4
Year	No	Subject	Short title

Part I.—Local Acts of the Governor General in Council in force in Assam

Year	No	Subject	Short title
1850	25 [1]	For the forefeiture to Government of deposits made on incomplete sales of land under Regulation 8, 1819	The Forefeited Deposits Act, 1850
"	33 [2]	*For amending the forms necessary for the sale of patni tenures in Bengal*	*The Sale of Patni Tenures Act, 1850*
1853	6 [1]	Relating to summary suits for arrears of rent, to sales of patni taluks and other saleable tenures, and to sales of land in satisfaction of summary decrees for rent	The Rent Recovery Act, 1853
"	19 [1]	To amend the law of evidence in the Civil Courts of the East India Company in the Bengal Presidency	The Recusant Witnesses Act, 1853
1856	12	*To amend the law respecting the employment of Amins by the Civil Courts in the Presidency of Fort William*	*The Civil Courts Amins Act, 1856.*
1867	3 [1]	To provide for the punishment of public gambling and the keeping of common gaming houses in the North Western Provinces of the Presidency of Fort William and in the Punjab, Oudh, the Central Provinces and British Burma	The Public Gambling Act, 1867
1871	10 [2]	*To provide for the appointment of Sessions Judges in Bengal and the North-Western Provinces*	*The Bengal Sessions Courts Act, 1871*
1874	8 [2]	*To provide for the exercise of the powers hitherto exercised by the Lieutenant Governor and Board of Revenue of Bengal in the territories forming the Chief Commissionership of Assam*	*The Assam Chief Commissionership Act, 1874*

[1] [illegible] the Repealing and Amend- [illegible] and Assam Laws Act, 1905 (VII of 1905)

THE THIRD SCHEDULE—*continued.*

1	2	3	4
Year.	No.	Subject.	Short title.
		Part I.—Local Acts of the Governor General in Council in force in Assam— continued.	
1874	12 [1]	*To provide for the exercise, in Sylhet, of the powers of the Lieutenant-Governor and Board of Revenue in Bengal.*	*The Sylhet Act, 1874.*
1886	3 [2]	To amend the Northern India Ferries Act, 1878.	The Northern India Ferries Act Amendment Act, 1878.[3]
1892	4 [2]	To amend the Bengal Court of Wards Act, 1879 [Act 9 (B. C.) of 1879].	The Court of Wards Act (Bengal) Amendment Act, 1892.
		Part II.—Regulation made under the Government of India Act, 1870 (33 Vict., Cap. 3).	
1884	3 [4]	To empower the extension of the Assam Frontier Tracts Regulation, 1880, to certain tracts in Assam and to declare that Act 10 of 1872 (the Code of Criminal Procedure) shall be deemed never to have come into force in the Garo Hills District, the Nága Hills District and the Khási and Jaintia Hills Districts.	The Assam Frontier Tracts Regulation, 1884.
		Part III.—Regulations of the Bengal Code in force in Assam.	
1793	1 [2]	For enacting into a Regulation certain Articles of a Proclamation bearing date the 22nd March, 1793.	The Bengal Permanent Settlement Regulation, 1793.
"	2 [2]	For abolishing the Courts of Mál Adálat or Revenue Courts, and transferring the trial of the suits which were cognizable in those Courts to the Courts of Diwáni Adálat; and prescribing Rules for the conduct of the Board of Revenue and the Collectors.	The Bengal Land-revenue Regulation, 1793.

[1] Acts VIII and XII of 1874 have been repealed by the Bengal and Assam Laws Act, 1905 (VII of 1905).
[2] Printed *ante.*
[3] *Sic. Read 1886*
[4] Printed *post.*

THE THIRD SCHEDULE—*continued*

1	2	3	4
Year.	No	Subject	Short title
Part III.—Regulations of the Bengal Code in force in Assam—continued			
1793	8 [1]	For re enacting, with modifications and amendments, the rules for the Decennial Settlement of the public revenue payable from the lands of the zamindars independent talukdars and other actual proprietors of land in Bengal, Bihar and Orissa, passed for those provinces respectively on the 18th September, 1789, the 25th November, 1789, and the 10th February, 1790, and subsequent dates	The Bengal Decennial Settlement Regulation, 1793
"	11 [1]	For removing certain restrictions to the operation of the Hindu and Muhammadan laws with regard to the inheritance of landed property subject to the payment of revenue to Government	The Bengal Inheritance Regulation, 1793
"	38 [1]	For re enacting, with modifications, such part of the rule passed on the 27th June, 1787, as prohibits Covenanted Civil Servants of the Company employed in the administration of justice on the collection of the public revenue lending money to zamindars, independent talukdars or other actual proprietors of land, or dependent talukdars or farmers of land holding farms immediately of Government or the under farmers or raiyats of the several descriptions of proprietors and farmers of land above mentioned, or their respective sureties	The Indian Civil Service (Bengal) Loans Prohibition Regulation 1793
1799	5 [1]	To limit the interference of the Zila Court of Diwani Adalat in the execution of wills and administration to the estates of persons dying intestate	The Bengal Wills and Intestacy Regulation, 1799

[1] Printed *ante*

THE THIRD SCHEDULE—*continued.*

1	2	3	4
Year.	No.	Subject.	Short Title.
Part III.—Regulations of the Bengal Code in force in Assam—continued.			
1800	10 [1]	For preventing the division of landed estates in the Jangal Mahals of the Zila of Midnapur and other districts.	The Bengal Inheritance Regulation, 1800.
1804	10 [1]	For declaring the powers of the Governor General in Council to provide for the immediate punishment of certain offences against the State by the sentence of Courts-martial.	The Bengal State-offences Regulation, 1804.
1806	11 [1]	For facilitating the progress of detachments of troops through the Company's territories, for affording any requisite assistance to persons travelling through those territories.	The Bengal Troops Transport and Travellers' Assistance Regulation, *1806.*
1812	11 [1]	To empower the Governor General in Council to order the removal of emigrants from foreign countries, and their descendants, from any place in the vicinity of the frontier of the State from which they may have emigrated; and, in certain cases, to place and detain any such persons in safe custody; and likewise to provide for the trial of emigrants and their descendants who may excite disturbances in the countries from which they may have emigrated, and of persons aiding them in the prosecution of such attempts.	The Bengal Foreign Immigrants Regulation, 1812.
1818	3 [1]	For the confinement of State Prisoners.	The Bengal State Prisoners Regulation, 1818.
1819	8 [1]	To declare the validity of certain tenures, and to define the relative rights of zamindars and patni talukdars; also to establish a process for the sale of such taluks in satisfaction of the zamindar's demand of rent.	The Bengal Patni Taluks Regulation, 1819.

[1] Printed *ante.*

THE THIRD SCHEDULE—*concluded.*

1	2	3	4
Year	No.	Subject	Short title
Part III.—Regulations of the Bengal Code in force in Assam—concluded			
1820	1 [1]	For providing that all sales of certain taluks made answerable by sale for arrears by the zamindar's rent shall be conducted in the mode provided by Regulation 8, 1819, for the sales therein described	The Bengal Patni Taluks Regulation, 1820
1823	7 [1]	For prohibiting loans by Covenanted Civil Servants from persons subject to their official authority and influence	The Indian Civil Service (Bengal) Loans Prohibition Regulation, 1823
1825	6 [1]	For rendering more effectual the rules in force relative to supplies and preparations for troops proceeding through the British territories	The Bengal Troops Transport Regulation, 1825
"	11 [1]	For declaring the rules to be observed in determining claims to lands gained by alluvion, or by dereliction of a river or the sea	The Bengal Alluvion and Diluvion Regulation, 1825
1827	3 [1]	For modifying and amending the rules in force relative to the law officers and ministerial native officers of the Courts of Judicature, who may be guilty of corruption or extortion	The Bengal Corruption and Extortion Regulation, 1827
"	5 [1]	For modifying the rules at present in force for the management of estates under attachments by orders of the Courts of Justice in certain cases	The Bengal Attached Estates Management Regulation, 1827.
1829	17 [1]	For declaring the practice of Sati or of burning or burying alive the widows of Hindus illegal and punishable by the Criminal Courts.	The Bengal Sati Regulation, 1829

[1] Printed *ante*.

ACT 6 OF 1901.

(THE ASSAM LABOUR AND EMIGRATION ACT, 1901.)

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ACT 6 OF 1901.

(THE ASSAM LABOUR AND EMIGRATION ACT, 1901)[1]

[*9th March, 1901*]

An Act to consolidate and amend the law relating to Emigration to the Labour-districts of Assam.

WHEREAS it is expedient to consolidate and amend the law relating to emigration to the labour-districts of Assam, It is hereby enacted as follows —

CHAPTER I.

PRELIMINARY.

1. *(1) This Act may be called the Assam Labour and Emigration Act, 1901.* Short title, extent and commencement.

[1] LEGISLATIVE PAPERS —This Act is an amalgamation of the provisions of two Bills separately introduced in Council—*see* Report of the Select Committee referred to below Those Bills were the "Assam Labour and Emigration Bill" and the "Assam Emigrants Health Bill"

For Statements of Objects and Reasons, *see* Gazette of India, 1899, Pt V, pp 165 and [illegible]

[illegible] is barred in the [illegible] notification—

[illegible] *see* the Appendix *post* [illegible]

[illegible] ors of Labourers; [illegible] Assistant Com[illegible] all sadar stations of plains districts, to perform the functions of a Magistrate within their respective districts—

(*see* Assam Gazette, 1901, Pt II, p. 448.)

(2) It extends—

(*a*) to the Provinces of Bengal (including the Sonthal Parganas), the North-Western Provinces, Oudh and Assam, the Central Provinces and the District of Ganjam in the Province of Madras, and

(*b*) to such other parts of British India as the Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official gazette, direct.

(3) It shall come into force—

(i) in the territories mentioned in clause (*a*) of sub-section (2), at once; and

(ii) in any territories to which it may be extended by a notification under clause (*b*) of the said sub-section, on such day as may be specified in that behalf in the notification.

Definitions.

2. (*1*) In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "agent" means garden-sardar or other person engaging or assisting any native of India to emigrate under Chapter V:

(*b*) "Assistant Inspector" means an Assistant Inspector of Labourers appointed under this Act:

(*c*) "contractor" means a contractor licensed under this Act:

(*d*) "dependant" includes any woman (not being a labourer), any child and any aged or incapacitated relative or friend accompanying any labourer with the consent of a contractor, sub-contractor, recruiter, local agent or garden-sardar, or accompanying any emigrant with the consent of an agent:

(*e*) "emigrate" denotes the departure of any native of India (not being a native of a labour-district) of the age of sixteen years or upwards from any part of the territories in which this Act may for the time being be in force, for the purpose of labouring for hire in a labour-district otherwise than as a domestic servant:

(*f*) "employer" means the chief person for the time being in charge of any estate upon which labourers or more than fifty other persons are employed:

(*g*) "estate" means the land upon which any labourers or more than fifty other persons have been engaged to labour:

(*h*) "garden-sardar" means a person employed on an estate and deputed by his employer to engage labourers:

(*i*) "Inspector" means an Inspector of Labourers appointed under this Act:

(*j*) "labour-contract" means a contract, penally enforceable under this Act, to labour for hire in a labour-district otherwise than as a domestic servant:

(*k*) "labour-district" means any of the districts of Lakhimpur, Sibsagar, Nowgong, Darrang, Kamrup, Goalpara, Cachar and Sylhet, in the Province of Assam

(*l*) "labourer" means any person bound by a labour-contract, and includes any person registered as such under section 34 or section 69:

(*m*) "local agent" means a local agent licensed under this Act

(*n*) "Magistrate" means a District Magistrate, Sub divisional Magistrate or other person appointed by the Local Government to perform the functions of a Magistrate under this Act

(*o*) "recruiter" means a recruiter licensed under this Act

(*p*) "recruiting district" means a district in which this Act is for the time being in force, other than a labour-district

(*q*) "Registering officer" means a Registering-officer appointed under this Act

(*r*) "sign" and "signature" include, in the case of persons unable to write, finger impressions

(*s*) "sub contractor" means a sub contractor licensed under this Act and

(*t*) "Superintendent" means a Superintendent of Emigration appointed under this Act

of 1872 (2) All words defined in the Indian Contract Act, 1872,[1] and used in this Act shall be deemed to have the meanings respectively assigned to them by that Act

Local Government may prohibit recruitment, etc, for emigration to any labour district or part thereof either absolutely or otherwise than under certain provisions of Act

3. The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette prohibit all persons from recruiting, engaging inducing or assisting any native of India, or any specified class of natives of India, to emigrate from the whole or any specified part of the Province to any labour-district or any specified portion of any labour district, either absolutely or otherwise than in accordance with such of the provisions of this Act as may be specified in the notification

Provided that a notification under this section shall not take effect until the expiry of six months from the date of its publication in the Gazette, unless for any special reason the Local Government thinks it necessary to direct that the notification is to take effect at an earlier date

Appointment of officers

4. (*1*) The Local Government may appoint so many persons as it thinks necessary to be Superintendents of Emigration, Registering officers, Embarkation Agents, Debarkation Agents, Inspectors of Labourers, Assistant Inspectors of Labourers and Medical Inspectors, under this Act respectively, and, with respect to any such officer, may, subject to the control of the Governor General in Council, declare the local area situate in the Province within

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[1] Printed in Genl. Acts, Vol. II.

which he shall exercise the powers and perform the duties conferred and imposed upon him by this Act or any rule thereunder.

XLV of 1860. (2) Every person so appointed shall be deemed to be a public servant within the meaning of the Indian Penal Code.[1]

CHAPTER II.

Labour-contracts Generally.

Essentials of labour-contracts.

5. (1) Every labour-contract shall be in writing in the form set forth in the first schedule, and shall be executed as hereinafter provided in duplicate on substantial paper.

(2) Every labour-contract shall specify—

(a) the names of the labourer and his employer;
(b) the term for which the labourer is to labour;
(c) the monthly wages in money of the labourer and the price at which rice is to be supplied to him;
(d) the labour-district in which, and, if the labourer so requests, the estate on which, the labourer is to labour.

(3) No labour-contract shall be made for a term exceeding four years or, if the contract is entered into under the provisions of section 118, for a term exceeding one year, commencing from the date of its execution.

(4) No labour-contract shall stipulate for a less rate of monthly wages than—

for the first year, five rupees in the case of a man and four rupees in the case of a woman:
for the second and third years, five rupees eight annas in the case of a man and four rupees eight annas in the case of a woman: and
for the fourth year, six rupees in the case of a man and five rupees in the case of a woman:

Provided that the payment of wages under a labour-contract at the stipulated rate shall during the first six months after the arrival of the labourer in the labour-district where he is first employed be contingent on the completion of half the daily task regulated in accordance with the provisions of this Act, unless an Inspector has certified that the labourer is physically fit to perform the whole of such task:

Provided also that in all other cases the payment of wages at the stipulated rate shall be contingent on the completion of such daily task:

Provided further that any labour-contract made before the first day of April, 1903, may stipulate for a rate of monthly wages of not less than five

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[1] Printed in Genl Acts. Vol. I.

rupees in the case of a man and four rupees in the case of a woman for the second and third years of the term of such contract

Contracts not enforceable as labour contracts unless made in accordance with section 5

6. No contract made otherwise than in accordance with the provisions of section 5 shall be enforceable under this Act as a labour contract against the labourer entering into it

In absence of specific obligation underground labour not obligatory

7. Unless his labour-contract contains a specific obligation to that effect, no labourer shall be bound by it to undertake any work involving underground labour in mines

Where contract does not specify estate, labourer to be deemed to have contracted to labour on any estate in charge of employer and situate in labour-district

8. Unless his labour-contract specifies the particular estate on which he is to labour, a labourer shall be deemed to have contracted to labour on any estate in charge of the employer for whom he has contracted to labour, and situate in the labour-district specified in the contract

Provided that no labourer shall, without his consent, be separated from his dependants (if any) or from any other labourer, being his or her wife, husband, son or daughter

Persons who may enter into labour contracts

9. Notwithstanding anything to the contrary in the Indian Contract Act, 1872,[1] any person of the age of sixteen years or upwards may enter into a labour contract

1872.

Provided that no woman shall be capable of binding herself by a labour contract if her husband or lawful guardian (if any) objects

Power of Local Government to cancel contract in case of wrongful recruitment.

10. (*1*) Where the Local Government, after such inquiry as it thinks sufficient, is of opinion that any labourer was recruited or conveyed to a labour-district or compelled or induced to enter into a labour contract, by any coercion, undue influence, fraud or misrepresentation, or that any such irregularity has occurred in connection with his recruitment or the execution of his contract as makes it just to rescind his contract, the Local Government may by order in writing, direct the labour contract of the labourer to be cancelled

(*2*) On receipt of an order made under sub section (*1*), the Superintendent, Inspector or Magistrate shall cancel the labour contract referred to in the order, and shall thereupon make endorsement that it has been so cancelled on the labourer's copy of the labour-contract, or, if that copy is not forthcoming, shall give to the labourer a certificate to the like effect

Power to cancel contract of labourer related to

11. Where the labour-contract of a labourer is or has been cancelled under section 10, the Local Government may, in its discretion and on the applica-

[1] Printed in Genl Acts Vol. II

labourer whose contract is cancelled.

tion of the labourer concerned, cancel the labour-contract of any labourer, being the wife, husband, father, mother, son or daughter of the labourer whose labour-contract is or has been cancelled, who may have entered into a labour-contract at the same place with the same employer or, in the case of a labour-contract, cancelled in the labour-districts, may be employed on any estate belonging to the same owner or under charge of the same employer.

Repatriation of labourers whose contracts are cancelled.

12. (*1*) Subject to any orders which the Local Government may make in this behalf, the Superintendent, Inspector or Magistrate may detain and send back to his native district any labourer, together with his dependants (if any), whose labour-contract has been cancelled under section 10 or section 11, and may recover the whole or any part of the expenses incurred during such detention or in so sending him back as follows, namely :—

(*a*) in the case of a labourer in a recruiting district, if the labourer has been recruited under Chapter III, from the contractor at whose depôt the labourer executed his labour-contract ;

(*b*) in the case of a labourer in a recruiting district, if the labourer has been recruited under Chapter IV, from the employer by whom the certificate of the garden-sardar concerned was granted or from the local agent of the employer ; and,

(*c*) in the case of a labourer in a labour-district, from the employer on whose estate the labourer is under contract to labour, or, if the labourer has been recruited under Chapter III, either from such employer or from the contractor at whose depôt the labourer executed the labour-contract, as to the Inspector or Magistrate may seem expedient.

(*2*) In the case of a labourer recruited under Chapter III, when the whole or any part of such expenses have been recovered from the employer, the employer shall be entitled to recover the same from the contractor at whose depôt the labourer executed the labour-contract.

(*3*) A certified copy of the order in writing of the Local Government under section 10 or section 11 and the receipt granted to the employer for such expenses shall be conclusive evidence of the title of the employer to recover such expenses from the contractor.

Escort for repatriated labourer.

13. (*1*) Where a labourer is sent back to his native district under section 12, the Superintendent, Inspector or Magistrate may provide an escort or make such other arrangements as he may think necessary for ensuring that the labourer is actually conveyed to his native district.

(*2*) Any expenditure incurred in providing such escort or making such arrangements as aforesaid may be recovered as part of the amount expended in sending the labourer back to his native district.

CHAPTER III

Recruitment by Contractors, Sub contractors and Recruiters.

Contractors and Sub-contractors

14. Any Superintendent specially empowered in this behalf by the Local Government may grant, to persons fitted by character to act as contractors, licenses to be contractors within the whole or any part of the local area for which the Superintendent has been appointed, and may also, on the application of any contractor, grant to persons fitted by character to act as sub-contractors licenses to be sub-contractors, on behalf of the contractor, within the whole or any part of the local area for which the contractor is licensed. Licensing of contractors and sub contractors.

15. Every license granted under section 14 shall be in such form, and subject to the payment of such fee, not exceeding, in the case of a contractor, one hundred rupees and, in the case of a sub contractor, fifty rupees as the Local Government may, by rule, prescribe. Fee for, and form of, contractors' and sub contractors' licenses

16. (*1*) No license shall be granted under section 14 for a longer period than one year from the date thereof, and, if the licensee fails to comply with any of the provisions of this Act or the rules thereunder, or is guilty of any other misconduct, his license may be cancelled by the Superintendent who granted the same Duration of contractors' and sub contractors' licenses and cancellation thereof

(*2*) A contractor or sub-contractor may, within one month from the date of any order of a Superintendent cancelling his license under sub-section (*1*), appeal against the order to the Local Government, and the decision of the Local Government thereon shall be final

17. Every contractor shall, in addition to the special duties imposed upon him by this Act, afford such information to the Superintendent and furnish him with such returns and reports as the Superintendent may, subject to any rules made by the Local Government in this behalf, require Duties of contractors

18. No sub-contractor shall be licensed to act on behalf of more than one contractor Sub contractor to act on behalf of only one contractor.

19. A contractor or sub contractor may act as a recruiter, and shall, when so acting, be subject to all the provisions of this Act relating to recruiters Contractor or sub contractor acting as recruiter

20. (*1*) Every contractor shall be liable for the acts and defaults as a sub-contractor or recruiter of any person licensed to be a sub-contractor or recruiter on his behalf, and all payments which under this Act or any rule thereunder, any person so licensed is required to make, may, in case of default, be recovered from the contractor concerned Liability of contractors' or sub-contractors' and recruiters' acts and defaults

(*2*) The Superintendent may cancel the license of any contractor where the license of any person so licensed on behalf of the contractor is liable to be cancelled under this Act

(3) Nothing in this section shall be deemed to render a contractor criminally liable for any act or default on the part of any person so licensed on his behalf.

Contractor to establish depôts.

21. Every contractor shall establish and maintain, at such places and for such local areas as the Local Government may direct, suitable depôts for the reception and lodging, previous to their despatch to the labour-districts, of labourers engaged by him or by sub-contractors or recruiters licensed on his behalf, and shall provide at his own expense all necessary food, clothing and medical treatment for any labourers so engaged during their stay at the depôts.

Inspection and supervision of depôts.

22. (1) No depôt shall be used for the reception and lodging of labourers until it has been inspected and approved of by the Superintendent and the Medical Inspector.

(2) Every depôt shall be under the supervision of the Superintendent, the Magistrate or such other officer as the Local Government may appoint in this behalf, and shall be open at all times to inspection by the Superintendent, the Magistrate or such officer as aforesaid, and the Medical Inspector.

(3) Where the Superintendent considers that any depôt is unhealthy, or has become unsuitable for the purpose for which it was established, he may, by order in writing, prohibit the use of the depôt for the reception and lodging of labourers.

Establishment of hospital-depôts.

23. In addition to the depôts hereinbefore provided for, the Local Government may establish separate hospital-depôts for the reception of labourers suffering from dangerously infectious or contagious diseases.

Contractor to contribute towards establishment and maintenance of hospital-depôt.

24. (1) Where a hospital-depôt is established under section 23, the Local Government may require any contractor having a depôt in the neighbourhood of the hospital-depôt to contribute to the expense of the establishment and maintenance of the hospital-depôt such reasonable sum as it may direct, and may recover the same from the contractor.

(2) Every hospital-depôt established under section 23 shall be under the charge of a medical officer appointed by the Local Government.

(3) Any Medical Inspector may direct the transfer of any labourer from a depôt established within the local limits of his jurisdiction to a hospital-depôt established under section 23 within the said local limits.

Recruiters.

Licensing of recruiters.

25. Any Superintendent empowered in this behalf by the Local Government may, on the application of a contractor or of any sub-contractor acting on behalf of a contractor, grant, to persons fitted by character to be employed in engaging labourers licenses to be recruiters on behalf of the contractor within the whole or any specified part of the local area for which the contractor has been licensed:

Provided that no person shall be granted a license under this section to be a recruiter on behalf of more than one contractor or to act as such within the local limits of more than one district.

26. Every license granted under section 25 shall be in such form, and subject to the payment of such fee, not exceeding sixteen rupees, as the Local Government may, by rule, prescribe

Form of, and fee for, recruiter's license

27. No license shall be granted under section 25 for a longer period than one year from the date thereof, and, if the licensee fails to comply with any of the provisions of this Act or the rules thereunder or is guilty of any other misconduct, his license may be cancelled by the Superintendent who granted the same

Duration of recruiter's license

28. Every recruiter shall hold a certificate in writing authorizing him to act as such and signed by the contractor or sub contractor on whose application he was licensed

Recruiter to hold certificate from contractor or sub contractor

29. (*1*) No recruiter shall engage or attempt to engage any person as a labourer unless his license bears the countersignature of a Magistrate having jurisdiction in the district or sub division for which he is licensed

Magistrate's counter signature of recruiter's license

(*2*) No Magistrate shall countersign a recruiter's license unless and until he has satisfied himself by such inquiry as he thinks fit that the licensee is not, by character or from any other cause, unfitted to be a recruiter under this Act, that he holds the certificate prescribed by section 28, and that sufficient and proper accommodation has been provided in a suitable place and is available for such labourers, or persons intending to become labourers, as may be collected by him pending their removal to a depôt

30. (*1*) Every Magistrate shall have, for the supervision inspection and regulation of any place within the local limits of his jurisdiction in which accommodation is provided under section 29, sub section (2) the same powers as are by this Act conferred on the Superintendent in respect of depôts

Magistrate to supervise accommodation

(*2*) The District or any Sub divisional Magistrate may authorize any Magistrate subordinate to him or any officer of police above the rank of sub-inspector, to visit and inspect such places as aforesaid at any time, and all recruiters or other persons in charge of such places as aforesaid shall afford to subordinate Magistrates and officers of police so authorized every facility for visiting and inspecting them

31. (*1*) Where any Magistrate who has countersigned a recruiter's license afterwards finds reason to think that the licensee is, by character or from any other cause, unfitted to be a recruiter under this Act, or that the accommodation provided under section 29 sub section (2) has become insufficient or improper or has ceased to be available, or that the place in which it is provided has become unsuitable, he may require the licensee to produce his license and may cancel his countersignature thereon, or he may impound the license and send it for cancellation to the Superintendent who granted the same

Cancellation of Magistrate's countersignature in certain cases

(*2*) Every Magistrate refusing to countersign a recruiter's license or cancelling his countersignature thereon shall at once report his refusal or cancellation and the grounds thereof to the Superintendent who granted the license

Procedure before arrival at Depôts.

Intending labourer to be taken for examination to medical officer.

32. *(1)* Every recruiter who desires to engage any person as a labourer shall appear with the person before such medical officer as the Local Government may appoint in this behalf within the local limits of the jurisdiction of the Magistrate by whom the recruiter's license was countersigned, or, if no medical officer has been so appointed, before such medical officer as the Registering-officer before whom the person is taken for registration as hereinafter provided may direct.

(2) The medical officer shall thereupon examine the person, and shall, if satisfied that he is in a fit state of health to proceed to the labour-district in which he intends to labour, and is not incapacitated, by reason of any obvious bodily defect or infirmity, for labour in the labour-districts, give him a certificate to that effect.

If certified to be fit, intending labourer to be brought before Registering-officer.

33. Every person who obtains a certificate under section 32, together with any persons about to proceed to a labour-district as his dependants, shall thereupon be brought by the recruiter before the Registering-officer having jurisdiction within the local area for which the recruiter is licensed, or before such other Registering-officer as the Local Government may appoint for that local area. The recruiter shall, at the same time, produce and show his license to the Registering-officer.

Examination and registration of intending labourer.

34. *(1)* The Registering-officer shall thereupon inspect the certificate given under section 32 and the license of the recruiter, and, if he finds that the certificate has been duly given and that the recruiter is duly licensed, shall then examine the person brought before him under section 33 with reference to his intended labour-contract, and explain the same to him.

(2) Where it appears that the person so brought before the Registering-officer is competent to enter into the intended labour-contract, and understands the same as regards the locality, the period and nature of the service, and the rate of wages and the price at which rice is to be supplied to him, that the terms thereof are in accordance with law, that he has not been induced to agree to enter thereinto by any coercion, undue influence, fraud, misrepresentation or mistake, and that he is willing to fulfil the same, the Registering-officer shall register, in a book to be kept for the purpose, such particulars regarding him and the persons (if any) whom he wishes to have registered as his dependants as the Local Government may, by rule, prescribe; and the labourer and his dependants (if any) shall thereupon be deemed to be registered under this Act.

(3) Where any woman is produced before a Registering-officer for the purpose of being registered under this section, the Registering-officer shall, after such inquiry as may be necessary to satisfy him of the identity of her husband or lawful guardian, as the case may be, and after such examination as may be necessary to satisfy him of the consent of such husband or lawful guardian, place on record in writing under his own signature that such husband or lawful guardian has consented to her entering into a labour-contract

and such record shall also be subscribed by the husband or lawful guardian with his signature

(4) In the case of any such woman who is alleged to be a widow or of an unmarried woman who is stated to have no lawful guardian living the Registering officer shall satisfy himself by the evidence of at least one witness that her husband is dead or that she has no lawful guardian, as the case may be, and shall record such evidence in writing under his own signature

35. (1) Where the Registering officer refuses to register a person as a labourer under this Act, he shall report his refusal to the District or Sub divisional Magistrate or other officer appointed by the Local Government in this behalf, and such Magistrate or officer as aforesaid may make such arrangements as he may think necessary for ensuring the return of the person and his dependants (if any) to their homes and for their proper housing and support in the interval In the case of any male under the age of sixteen years or any female recruited in circumstances which appear to be suspicious the arrangements may include the provision of an escort home

Arrangements to be made for return to home of intending labourer whose registration is refused

(2) Any expenditure incurred under sub section (1) may be recovered from the contractor or recruiter concerned, or both

36. The Registering officer shall furnish to every person registered under section 34, sub section (2) a certified copy written on substantial paper of the particulars referred to therein

Copy of registration to be given to labourer

37. Every Registering officer registering a person under section 34 sub section (2), shall forthwith forward a certified copy of the particulars referred to therein and the original certificate of the medical officer regarding the person to the Superintendent having jurisdiction over the depôt to which the person is to proceed

Copy of registration and medical certificate to be sent to Superintendent

38. For every person produced before a Registering officer for the purpose of being registered under section 34, sub section (2) the recruiter shall pay to the Registering officer such fee not exceeding one rupee, as the Local Government may, by rule, prescribe

Fee for registration

39. No recruiter shall remove or attempt to remove any person to a depôt, or induce or attempt to induce him to go to a depôt or to leave the local limits of the jurisdiction of the Registering officer before whom he ought to be brought under section 33, or aid or attempt to aid him in going to a depôt, or leaving any such local limits as aforesaid, unless and until he has been registered under section 34, sub section (2)

Recruiter when to remove person to depôt

40. (1) After a labourer has been registered under section 34, sub section (2) the Registering officer shall direct the recruiter to convey the labourer with all convenient despatch to a depôt established by the contractor on whose behalf the recruiter has been licensed, and shall specify the depôt to which the labourer is to be conveyed

Conveyance of labourer to depôt

(2) Every labourer shall while proceeding to the depôt be accompanied throughout the journey either by the recruiter himself or by a competent

Procedure before arrival at Depôts.

Intending labourer to be taken for examination to medical officer.

32. (*1*) Every recruiter who desires to engage any person as a labourer shall appear with the person before such medical officer as the Local Government may appoint in this behalf within the local limits of the jurisdiction of the Magistrate by whom the recruiter's license was countersigned, or, if no medical officer has been so appointed, before such medical officer as the Registering-officer before whom the person is taken for registration as hereinafter provided may direct.

(*2*) The medical officer shall thereupon examine the person, and shall, if satisfied that he is in a fit state of health to proceed to the labour-district in which he intends to labour, and is not incapacitated, by reason of any obvious bodily defect or infirmity, for labour in the labour-districts, give him a certificate to that effect.

If certified to be fit, intending labourer to be brought before Registering-officer.

33. Every person who obtains a certificate under section 32, together with any persons about to proceed to a labour-district as his dependants, shall thereupon be brought by the recruiter before the Registering-officer having jurisdiction within the local area for which the recruiter is licensed, or before such other Registering-officer as the Local Government may appoint for that local area. The recruiter shall, at the same time, produce and show his license to the Registering-officer.

Examination and registration of intending labourer.

34. (*1*) The Registering-officer shall thereupon inspect the certificate given under section 32 and the license of the recruiter, and, if he finds that the certificate has been duly given and that the recruiter is duly licensed, shall then examine the person brought before him under section 33 with reference to his intended labour-contract, and explain the same to him.

(*2*) Where it appears that the person so brought before the Registering-officer is competent to enter into the intended labour-contract, and understands the same as regards the locality, the period and nature of the service, and the rate of wages and the price at which rice is to be supplied to him, that the terms thereof are in accordance with law, that he has not been induced to agree to enter thereinto by any coercion, undue influence, fraud, misrepresentation or mistake, and that he is willing to fulfil the same, the Registering-officer shall register, in a book to be kept for the purpose, such particulars regarding him and the persons (if any) whom he wishes to have registered as his dependants as the Local Government may, by rule, prescribe; and the labourer and his dependants (if any) shall thereupon be deemed to be registered under this Act.

(*3*) Where any woman is produced before a Registering-officer for the purpose of being registered under this section, the Registering-officer shall, after such inquiry as may be necessary to satisfy him of the identity of her husband or lawful guardian, as the case may be, and after such examination as may be necessary to satisfy him of the consent of such husband or lawful guardian, place on record in writing under his own signature that such husband or lawful guardian has consented to her entering into a labour-contract

and such record shall also be subscribed by the husband or lawful guardian with his signature

(4) In the case of any such woman who is alleged to be a widow or of an unmarried woman who is stated to have no lawful guardian living the Registering officer shall satisfy himself by the evidence of at least one witness that her husband is dead or that she has no lawful guardian, as the case may be and shall record such evidence in writing under his own signature

35. (1) Where the Registering officer refuses to register a person as a labourer under this Act he shall report his refusal to the District or Sub divisional Magistrate or other officer appointed by the Local Government in this behalf and such Magistrate or officer as aforesaid may make such arrangements as he may think necessary for ensuring the return of the person and his dependants (if any) to their homes and for their proper housing and support in the interval In the case of any male under the age of sixteen years or any female recruited in circumstances which appear to be suspicious the arrangements may include the provision of an escort home

Arrangements to be made for return to home of intending labourer whose registration is refused

(2) Any expenditure incurred under sub section (1) may be recovered from the contractor or recruiter concerned or both

36. The Registering officer shall furnish to every person registered under section 34, sub section (2) a certified copy written on substantial paper of the particulars referred to therein

Copy of registration to be given to labourer

37. Every Registering officer registering a person under section 34 sub section (2), shall forthwith forward a certified copy of the particulars referred to therein and the original certificate of the medical officer regarding the person to the Superintendent having jurisdiction over the depôt to which the person is to proceed

Copy of registration and medical certificate to be sent to Superintendent

38. For every person produced before a Registering officer for the purpose of being registered under section 34 sub section (2) the recruiter shall pay to the Registering officer such fee, not exceeding one rupee as the Local Government may, by rule, prescribe

Fee for registration

39. No recruiter shall remove or attempt to remove any person to a depôt, or induce or attempt to induce him to go to a depôt, or to leave the local limits of the jurisdiction of the Registering officer before whom he ought to be brought under section 33, or aid or attempt to aid him in going to a depôt, or leaving any such local limits as aforesaid, unless and until he has been registered under section 34, sub section (2)

Recruiter when to remove person to depôt

40. (1) After a labourer has been registered under section 34 sub section (2) the Registering officer shall direct the recruiter to convey the labourer with all convenient despatch to a depôt established by the contractor on whose behalf the recruiter has been licensed, and shall specify the depôt to which the labourer is to be conveyed

Conveyance of labourer to depôt

(2) Every labourer shall while proceeding to the depôt, be accompanied throughout the journey either by the recruiter himself or by a competent

person deputed by him with the approval of the Registering-officer by whom the labourer has been registered.

(*3*) The Registering-officer shall give to every person so deputed a certificate under his signature, stating that he has been deputed for the journey to the depôt.

Recruiter to provide food and lodging for labourer on journey.

41. Every recruiter or person deputed by him under section 40, sub-section (2), shall, throughout the journey to the depôt, provide the labourer and his dependants (if any) with proper and sufficient food and lodging.

Procedure at Contractors' Depôts.

Contractor to report arrival of labourer.

42. Within twenty-four hours after the arrival of a labourer at a depôt, the contractor by whom the depôt is maintained, or the person in charge thereof, shall give to the Superintendent, within the local limits of whose jurisdiction the depôt is situate, a notice in writing, in such form and containing such particulars as the Local Government may, by rule, prescribe, of the arrival of the labourer.

Duties of Medical Inspector.

43. (*1*) The Medical Inspector shall, as soon as may be after the arrival of a labourer at a depôt, examine the labourer and his dependants (if any) to ascertain that they are in a fit state of health to undertake the journey to the labour-district to which they intend to proceed, and, in the case of the labourer, that he is also not incapacitated, by reason of any obvious bodily defect or infirmity, for labour in the labour-districts.

(*2*) The Medical Inspector shall give a certificate to the Superintendent stating whether he is or is not satisfied that the labourer and his dependants (if any) are in a fit state of health to undertake the journey, and, in the case of the labourer, that he is also not incapacitated as aforesaid.

On grant of certificate, labourer to enter into labour-contract.

44. Where the Medical Inspector gives a certificate under section 43, sub-section (*2*), with respect to any labourer, and there is, in the opinion of the Superintendent, no valid reason why the labourer should not enter into the intended labour-contract, the labourer and the employer with whom he intends to contract, or the person appearing on behalf of the employer, shall, after the lapse of three, and within thirty days after the date of the arrival of the labourer at the depôt, execute the labour-contract in the presence of the Superintendent:

Provided that no labour-contract shall be executed as aforesaid except in the district in which the labourer was registered under section 34, sub-section (*2*), or at such other place within the Province as the Local Government may direct.

Contract to be explained to labourer by Superintendent, and abstract and copies to be made.

45. (*1*) Before any labourer executes a labour-contract, under section 44, the Superintendent shall personally explain it to him, and shall, after the same has been executed by him and by his employer or the person appearing on behalf of his employer, attest the labour-contract and certify at the foot thereof that he has personally explained the same to the labourer.

(2) An abstract of every labour contract so executed shall be entered in a register to be kept by the Superintendent for the purpose, and, after the abstract has been so entered, one copy of the labour contract shall be given to the labourer, and the other to his employer or the agent of his employer

46. Where the employer with whom any labourer intends to contract, or a person appearing on behalf of the employer, has given notice to the Superintendent that, before any labour contract is entered into by him or on his behalf with any labourer, the labourer shall be examined by a medical man selected by such employer or person appearing on behalf of the employer and shall be certified by him to be physically and constitutionally fit for labour in the labour districts in which the estate of the employer is situate, the Superintendent shall not permit the labourer to execute a labour contract, until such medical certificate as aforesaid has been produced and shown to him

Power for employer to require further medical certificate as to fitness to labour previous to contract

47. Where the employer or the person appearing on his behalf has directed that the examination referred to in section 46 shall be made by a medical officer in the service of the Government, such officer as aforesaid making the examination shall be entitled to receive from the employer or such person such fees as may be agreed upon, or, if no agreement has been entered into, then such fee for each labourer so examined as the Local Government by general or special order, may direct

Fee of medical officer when in Government service for examination under section 46

48. In any of the following cases, namely —

Power to cancel contract and order payment of expense of return of labourer in certain cases

(a) where the Medical Inspector, on making the examination required by section 43, sub section (1), or at any subsequent time during the stay at the depôt of a labourer, finds that the labourer is or has become unfit to undertake the journey to the labour district to which he intends to proceed, or that the labourer is incapacitated, by reason of any obvious bodily defect or infirmity for labour in the labour districts and the Superintendent considers that the labourer has not dishonestly represented himself as fit to undertake the journey, or

(b) where the Superintendent finds that any such irregularity has occurred in the recruitment or treatment by the recruiter of a labourer as makes it just to refuse to permit a labour-contract to be executed or to rescind a labour contract which has been executed, or

(c) where the contractor on whose behalf or by whom a labourer has been registered does not, after the lapse of three, and within thirty, days after the date of the arrival of the labourer at the depôt, tender to him a labour contract for execution under section 44, or the employer or the person appearing on his behalf refuses or neglects to execute the contract as required by that section,

the Superintendent may cancel the labour-contract executed by the labourer, and in that event, or if no labour contract has been executed, may order the contractor at once to pay the labourer such reasonable sum as the Superinten-

dent may think necessary to enable the labourer to return to the place at which he was registered or to his native district, as to the Superintendent may seem fit, and such further sum by way of compensation as the Superintendent thinks reasonable; and may take such other steps as he may think necessary for the conveyance of the labourer to such place or district as aforesaid.

Labourer when to be lodged, etc., at depôt till he can return home.

49. (*1*) Any labourer who, from his state of health, is, in the opinion of the Medical Inspector, unfit to undertake the return journey, shall be entitled to be fed, lodged, clothed and (if necessary) medically treated at the depôt at the expense of the contractor by whom the depôt is maintained, until he is reported by the Medical Inspector to be fit to undertake the return journey.

(*2*) Where the contractor negligently or wilfully omits to provide food, lodging, clothing or medical treatment for the labourer, the Superintendent may order the contractor at once to pay such reasonable sum as the Superintendent may think necessary to provide such food, lodging, clothing or medical treatment as aforesaid.

Like provisions in case of dependants and relatives.

50. Where an order is made under section 48 with reference to a labourer, any person registered as his dependant, or any other labourer, being his or her wife, husband, son or daughter, may claim—

(*a*) to be conveyed, at the expense of the contractor, with the labourer to the same place as the labourer; and

(*b*) if the labourer is unable to travel, to be fed, lodged, clothed and (if necessary) medically treated in the depôt at the expense of the contractor until the labourer is able to travel;

and the Superintendent may include such expenses as aforesaid in an order made under section 48 or section 49 with respect to the labourer.

Compensation to labourer for ill-treatment on the journey.

51. Where, upon the arrival of a labourer at a depôt, it appears that during the journey to the depôt the labourer or any person registered as his dependant has suffered ill-treatment at the hands of the recruiter or person deputed by the recruiter to accompany the labourer, or that the recruiter or such person as aforesaid has failed to provide the labourer or any person registered as his dependant with proper and sufficient food and lodging, the Superintendent may order the contractor by whom the depôt is maintained to pay the labourer a reasonable sum by way of compensation.

Procedure when dependant declared unfit to proceed to labour-district.

52. Where the Medical Inspector has reason to think that any person registered as the dependant of a labourer is not in a fit state of health to undertake the journey to the labour-district to which the labourer intends to proceed, the Medical Inspector shall so certify to the Superintendent to whom notice of the arrival of the labourer was given. The provisions of sections 48 and 49 shall thereupon apply to the dependant as if he were a labourer, and the Superintendent may make such orders regarding him as he may make under those sections with regard to a labourer.

Labourer and relatives entitled to be returned

53. In any such case as is provided for by section 52 the labourer to whom the dependant is attached shall further be entitled, if he or she so wishes, and if he or she is the husband, wife, son or daughter of the dependant, to

receive from the contractor at whose depôt he or she arrived, such reasonable sum as the Superintendent may think necessary to enable him or her to return to the place where he or she was registered, or to his or her native district, as to the Superintendent may seem fit If the labourer so returns, then any other persons registered as his or her dependants, and any other labourer, being his or her wife, husband, son or daughter, shall also be entitled to receive a like sum from the contractor with dependant

54. On the failure of a contractor for the space of twenty four hours to comply with an order of the Superintendent to pay any sum required to be paid under section 48, section 49, section 50, section 51, section 52, or section 53, the Superintendent may pay the same to or on behalf of the labourer or dependant concerned, and may recover it from the contractor Failure of contractor to pay sums ordered to be paid under sections 48 to 53

55. (*1*) All labourers despatched from a contractor's depôt to a labour-district shall, during their journey to the place where they are to labour, be accompanied by a person appointed by the contractor, and no person shall be so appointed unless he holds a certificate of fitness signed by the Superintendent, who may cancel such certificate for any reason which seems to him sufficient Provisions as to escort on journey and way bill

(*2*) Every person appointed under sub-section (*1*) shall take with him a way-bill in such form and containing such particulars and instructions as the Local Government may prescribe, he shall present the way-bill at all such places and to all such officers as may be thereupon indicated, and he shall carry out all instructions therein contained for his guidance

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CHAPTER IV

Recruitment by Garden sardars and Local Agents

Garden sardars

56. (*1*) An employer may grant to any garden sardar a certificate authorizing him, in such local area within the limits of a single recruiting district as may be specified in the certificate to enter into labour contracts with persons desirous of becoming labourers upon any estate of which the employer is in charge, and may cancel such certificate at any time Employer may grant certificate to garden sardar

(*2*) Where any labourer bound by a labour contract is granted a certificate under sub section (*1*) his employment under the certificate shall be deemed to be employment under his labour contract

57. (*1*) Every certificate granted to a garden sardar under section 56, sub section (*1*) shall be in such form and shall contain such particulars as the Chief Commissioner of Assam may prescribe in this behalf Form and particulars to be contained in such certificate.

(*2*) Any employer granting a certificate to a garden sardar under section 56, sub section (*1*) may, before the certificate is accepted and signed as here-

inafter provided, specify therein the name of the local agent (if any) to whom the garden-sardar is to report himself for orders, the time within which he is to return to his employer, and such other instructions for his guidance as he may think fit.

Certificate to be accepted and signed in presence of Inspector or Magistrate.

58. Every certificate granted to a garden-sardar under section 56, sub-section (*1*), shall be accepted and signed by the garden-sardar in the presence of the Inspector or of a Magistrate having jurisdiction over the place where the employer granting the certificate resides.

Inspector's or Magistrate's countersignature of certificate.

59. The Inspector or Magistrate shall inquire into the facts stated in the certificate, and, upon being satisfied of the truth of the facts so stated, shall, unless it appears to him that the person so accepting and signing the certificate is not employed on an estate of which the person granting the certificate is in charge or is, by character or from any other cause, unfitted to be a garden-sardar, countersign and date the certificate.

Provision for grant of fresh certificate.

60. (*1*) On the application of the employer by whom any certificate so countersigned has been granted to a garden-sardar, the Inspector or Magistrate may, without requiring the appearance of the garden-sardar or making the inquiry prescribed by section 59, countersign a fresh certificate to be granted by the employer to the garden-sardar in renewal of any existing certificate.

(*2*) Every fresh certificate granted under sub-section (*1*) shall be forwarded by the Inspector or Magistrate countersigning it to the District Magistrate of the district in which the garden-sardar to whom it is granted is employed; and the garden-sardar shall, on receiving notice from such District Magistrate as aforesaid, appear before him or any Magistrate specified in the notice and accept and sign the fresh certificate in his presence.

Certificate when to come into force, and duration thereof.

61. No certificate granted to a garden-sardar under this Chapter shall come into force unless and until it has been accepted and signed by the garden-sardar and countersigned by the Inspector or Magistrate having jurisdiction over the place where the employer granting the certificate resides, and also by the District Magistrate of the district in which the garden-sardar is authorized by the certificate to enter into labour-contracts, and no certificate so granted shall continue in force for a longer period than one year from the date of its countersignature by the said Inspector or Magistrate.

Accommodation to be provided by garden-sardar.

62. (*1*) Every garden-sardar shall provide sufficient and proper accommodation in a suitable place for such labourers, or persons intending to become labourers, as may be collected by him pending their removal to a labour-district.

(*2*) The District or Sub-divisional Magistrate shall visit and inspect the accommodation so provided; and every garden-sardar or other person in charge of a place in which accommodation is so provided shall afford to such Magistrate every facility for visiting and inspecting it.

(*3*) The District or Sub-divisional Magistrate may delegate the duty imposed on him by sub-section (*2*) to a subordinate Magistrate or to an officer of police above the rank of sub-inspector.

(4) In every such place as aforesaid the garden sardar providing the accommodation shall make such sanitary arrangements as the Local Government may prescribe

63. (1) Where a garden sardar commits a breach of any of the provisions of this Act or the rules thereunder, the Inspector or Magistrate who countersigned his certificate, or the District Magistrate who countersigned the certificate under section 61, or the Superintendent within whose jurisdiction the garden sardar is employed, may cancel the certificate Cancellation of certificate in certain cases

(2) Whenever one of the officers aforesaid cancels a certificate he shall give notice of the fact to the other officers mentioned in sub section (1) and to the employer of the garden sardar, and whenever such a certificate is cancelled by the employer, notice of the fact shall be given by him to the officers aforesaid

(3) When the certificate of a garden sardar is cancelled under this section any labourers or other persons of whom he is in charge may be forwarded to their destination under the care of any person appointed by the employer for that purpose and approved by the Superintendent

Local Agent

64. (1) Any Superintendent authorized in this behalf by the Local Government may, on the application of one or more employers grant licenses to suitable persons to be local agents for the purpose of representing employers in all matters connected with the supervision of garden sardars under this Chapter or section 90 or section 91 within such local area and for such period as the employer or employers so applying may desire Licensing and duties of local agents

Provided that no contractor and no person who in the opinion of the Superintendent has a share or interest in any contractor's business shall be licensed as a local agent

(2) A local agent shall furnish such information and make such returns as the Local Government may, by rule, prescribe

65. Any Superintendent authorized in this behalf by the Local Government may, on the application of one or more employers, grant licenses, for such period as the employer or employers may desire, to suitable persons to be selecting agents for the selection, on behalf of the employer or employers of labourers recruited by contractors, and such selecting agent shall furnish such information and make such returns as the Local Government may by rule, prescribe Selecting agent

Provided that no contractor or local agent and no person who in the opinion of the Superintendent has a share or interest in any contractor's business shall be licensed as a selecting agent

Provided also that no such license shall be granted for more than one year from the date thereof

Provided also that a license granted under this section may be cancelled by the Superintendent for any reason which seems to him sufficient

Prosecution of garden-sardars by local agents.

66. Where any garden-sardar to whom a certificate has been granted under this Chapter by an employer commits any offence punishable under this Act, any local agent of the employer may prosecute the garden-sardar for that offence.

Cancellation of licenses of local agents.

67. (*1*) The District Magistrate of any district within which a local agent acts as such may, by order in writing, cancel the license of the local agent if the employer so requires, or if it is shown to the satisfaction of the District Magistrate that the local agent has—

(*a*) employed any contractor's recruiter to recruit or engage on his behalf persons to be labourers; or

(*b*) permitted persons engaged as labourers by or on behalf of any contractor to use the accommodation provided for the persons engaged as labourers by any garden-sardar under the local agent's control; or

(*c*) allowed any garden-sardar under his control to transfer persons engaged as labourers by the garden-sardar to contractors or to their recruiters or to any employer other than the employer by whom the garden-sardar's certificate was granted; or

(*d*) himself taken over persons engaged as labourers by any garden-sardar with intent to despatch them to any employer other than the employer by whom the garden-sardar's certificate was granted.

(*2*) A local agent may, within three months next after the date of any order of a District Magistrate cancelling his license under sub-section (*1*), appeal against the order to the Local Government, and the decision of the Local Government thereon shall be final.

Procedure to be followed by Garden-sardars.

Garden-sardar and labourer to appear before Registering-officer for registration.

68. Every garden-sardar who desires to engage any person as a labourer shall appear with the person, together with any others about to proceed to a labour-district as his dependants, before the Registering-officer having jurisdiction within the local area specified in the certificate of the garden-sardar or before such other Registering-officer as the Local Government may appoint for that local area.

Examination and registration of persons engaged by garden-sardar.

69. (*1*) The Registering-officer shall thereupon inspect the certificate of the garden-sardar, and if he finds that the certificate is in force, shall examine, with reference to the intended labour-contract, the person brought before him under section 68 whom it is desired to engage as a labourer, and explain the intended labour-contract to him.

(*2*) Where it appears that the person so brought before the Registering-officer is competent to enter into the intended labour-contract and understands the nature of the same as regards the locality, period and nature of the service, and the rate of wages and the price at which rice is to be supplied to him, that the terms thereof are in accordance with law, that he has not been

induced to agree to enter thereinto by any coercion, undue influence, fraud, misrepresentation or mistake, and that he is willing to fulfil the same, the Registering officer shall register, in a book to be kept for the purpose, such particulars regarding him and his dependants (if any) as the Local Government may, by rule, prescribe, and the labourer and his dependants (if any) shall thereupon be deemed to be registered under this Act

70. (*1*) Where it appears to the Registering officer that any person brought before him under section 68 is not in a fit state of health to undertake the journey to the labour district to which he intends to proceed or, in the case of a labourer, that he is incapacitated, by reason of any obvious bodily defect or infirmity, for labour in the labour districts, the Registering officer may, before registering him under section 69 sub section (2) if himself a medical man, medically examine him or, if not himself a medical man, send him to a medical man for medical examination Medical examination

(*2*) If upon medical examination any person so brought before a Registering-officer is declared unfit to undertake the journey to the labour district or in the case of a labourer, incapacitated, by reason of any obvious bodily defect or infirmity for labour in the labour districts, the Registering officer may refuse to register him

71. For every person brought before a Registering officer under section 68 for the purpose of being registered as a labourer, the garden sardar who appears with him shall pay to the Registering officer such fee, not exceeding one rupee, as the Local Government may direct Fee to be paid for every labourer produced for registration

72. (*1*) Where a person has been registered under section 69, sub section (2), he shall, within fifteen days after the date on which he was so registered, execute a labour contract with the employer with whom he intends to contract Labour contract to be executed

(*2*) The labour-contract shall be signed in the presence of the Registering officer by the person so registered and, on behalf of the employer, by the garden-sardar who appears with him before the Registering officer The Registering officer shall satisfy himself that the labour contract is in accordance with any instructions specified in the certificate of the garden sardar, and, if he is so satisfied shall, before the labourer signs the labour contract personally explain it to him and, after it has been executed as aforesaid attest it, and certify at the foot thereof that he has personally explained it to the labourer

(*3*) An abstract of every labour contract executed under this section shall be entered in a register to be kept for the purpose by the Registering-officer, and a copy thereof shall then be given to the labourer and a copy to the garden sardar or local agent

(*4*) Where any garden sardar, without reasonable cause, refuses or neglects to execute a labour-contract with a labourer as required by sub-section (2) within fifteen days after the date on which the labourer was registered under section 69, sub-section (2), the Registering officer may order the garden sardar

to pay to the labourer such reasonable compensation, not exceeding twenty rupees, as the Registering-officer may think fit.

Procedure when employer requires medical examination previous to registration.

73. Where the employer of a garden-sardar has, in the instructions specified in the certificate of the garden-sardar, directed that every labourer engaged by him shall before registration be examined by a competent medical man and certified by him to be in a fit state of health to undertake the journey to the labour district to which he intends to proceed, and physically and constitutionally fit for labour in the labour-districts, no Registering-officer shall register as a labourer any person appearing before him with the garden-sardar until such medical certificate as aforesaid has been produced and shown to him.

Fee of medical officer when in Government service for examination under section 73.

74. Where the employer of a garden-sardar has, in the instructions specified in the certificate of the garden-sardar, directed that the examination referred to in section 73 shall be made by a medical officer in the service of the Government, such officer as aforesaid making the examination shall be entitled to receive from the local agent or garden-sardar such fee, for each labourer so examined, as may be agreed upon, and, if no agreement has been entered into, such fee as the Local Government, by general or special order, may direct.

Garden-sardar when to remove labourer to labour-district.

75. Unless and until a person whom it is desired to engage as a labourer under this Chapter has executed a labour-contract under section 72 no garden-sardar shall remove or attempt to remove him to a labour-district, or induce or attempt to induce him to go to a labour-district, or to leave the local area or aid or attempt to aid him in proceeding to a labour-district.

Garden-sardar to accompany labourers or send competent person with them.

76. *(1)* A garden-sardar shall either himself accompany labourers engaged by him throughout their journey from the place in which the labour-contract was entered into, to the labour-district wherein they have contracted to labour, or shall send with them some competent person appointed by him with the approval of the local agent of his employer, or, if his employer has no local agent, with the approval of the officer by whom the labourers were registered.

(2) When the number of labourers (exclusive of dependants) proceeding on their journey to a labour-district is more than twenty, for every twenty labourers so in excess, or for any number of labourers less than twenty so in excess, one additional garden-sardar or person so appointed by him shall accompany the labourers so proceeding.

No restriction on number of persons engaged by garden-sardar.

77. A garden-sardar may, subject to the instructions specified in his certificate, engage any number of persons as labourers; and, subject to the provisions of section 76, any number of labourers may be despatched at the same time to the labour-districts.

Appointment in certain cases of garden-

78. A garden-sardar may, with the previous consent in writing of the local agent of the employer by whom his certificate was granted, or, if the employer has no local agent, with the previous consent in writing of the em-

ployer, be appointed under section 76 as a competent person to accompany labourers other than those engaged by him sardar to accompany labourers not engaged by him

79. (1) Every garden sardar or person appointed by him as aforesaid who accompanies labourers to the labour districts shall present to the officer before whom the labourers have executed a contract under section 72 a way-bill in such form and containing such particulars and instructions as the Local Government may prescribe Provision for way bill.

(2) Every such garden sardar or other person as aforesaid shall also present the way bill at all such places and to all such officers as may be thereupon indicated, and shall carry out all instructions therein contained for his guidance

80. Every garden sardar or person appointed by him as aforesaid who accompanies labourers to the labour districts shall provide the labourers and their dependants (if any) with proper and sufficient food and lodging throughout the journey Garden sardar to provide food and lodging for labourers and dependants on journey

81. Where it appears to any Magistrate, on the complaint of a labourer at any place on the journey, that the labourer or any person registered as his dependant has suffered ill treatment during the journey at the hands of the garden sardar or person appointed by the garden sardar accompanying the labourer or that the garden sardar or person so appointed has failed to provide the labourer or any of his dependants with proper and sufficient food and lodging or has wilfully abandoned the labourer or any of his dependants the Magistrate may either order the garden-sardar or person so appointed to pay to the labourer a reasonable sum by way of compensation, or may cancel the labour contract entered into by the labourer and order the garden sardar or person so appointed to pay to the labourer such reasonable sum as the Magistrate may think necessary to enable him with his dependants (if any) to return to the place at which he was registered, or to his native district, as to the Magistrate may seem fit Power for Magistrate in certain cases to award compensation or cancel contract

82. On the failure for the space of twenty four hours of any garden-sardar or person appointed by him as aforesaid to comply with an order made under section 81 to pay any sum, the Magistrate may pay the same to or on behalf of the labourer concerned and may recover it from the employer by whom the certificate of the garden sardar was granted, or from the local agent of the employer Procedure on failure of garden-sardar to comply with order

83. Any Magistrate or Embarkation Agent may, if himself a medical man medically examine, and, if not himself a medical man, send for medical examination by a medical man, any labourer or dependant who, while on the journey to the district to which he intends to proceed, appears to the Magistrate or Embarkation Agent as the case may be, not to be in a fit state of health to proceed thereto Medical inspection of labourers *en route*

84. (1) Where any labourer or dependant is, on examination under section 83, declared not to be in a fit state of health to undertake the journey to the Detention and return of labourer

dependant with food, lodging, clothing and medical treatment, or to send him back as required by section 84 or section 85 the Magistrate or Embarkation Agent may order the garden sardar or person so appointed to pay such sum as the Magistrate or Embarkation Agent, as the case may be, may think necessary to provide food, lodging, clothing and medical treatment, or to defray the cost of the return journey of the labourer or dependant and, on failure, for the space of twenty four hours, of the garden sardar or person so appointed to comply with the order, the Magistrate or Embarkation Agent, as the case may be, may pay the sum specified in the order to or on behalf of the labourer or dependant concerned, and may recover it from the employer by whom the certificate of the garden-sardar was granted or from the local agent of the employer and return journey of labourer.

87. (*1*) Where a labour contract has been executed by a garden sardar on behalf of his employer, any local agent or other representative of the employer may require the labourer to appear before the Superintendent for the cancellation of his labour contract

Representative of employer may procure order from Superintendent cancelling the labour contract on payment of expense of return

(*2*) If, when the labourer appears under sub section (*1*), such reasonable sum as the Superintendent may think necessary to enable the labourer and his dependants (if any) to return to the native district of the labourer or to the place at which he was registered as to the Superintendent may seem fit and such further sum (if any) by way of compensation as the Superintendent may think reasonable are paid to the labourer in his presence the Superintendent may declare the labour contract cancelled and in that event shall make an endorsement to the like effect on the labourer's copy of the labour contract, and attest the endorsement with his signature

88. (*1*) Where the Superintendent declares the labour contract of any labourer to be cancelled, any other labourer who is the wife, husband father, mother, son or daughter of the labourer and has entered into a labour contract at the same place with the same employer, may claim to have her or his labour contract cancelled at the same time

Cancellation of contracts of relatives.

(*2*) Where a claim is made under sub section (*1*) the Superintendent shall declare the labour contract of the claimant to be cancelled, and shall order the local agent or representative of the claimants' employer to pay to the claimant such reasonable sum as the Superintendent may think necessary to enable him and his dependants (if any) to return to the same place as the labourer

(*3*) On the failure for the space of twenty four hours of the local agent or representative to comply with an order made under sub section (*2*) the Superintendent may pay the sum specified in the order to or on behalf of the claimant concerned and may recover the same from the employer by whom the certificate of the garden sardar was granted, or from the local agent or representative who appears on behalf of the employer

89. When an order is made under section 81, 86 or 88 for payment of the costs of the return journey of any labourer or other person, the Magistrate

Cost of escort for repatriated labourer

may order the garden-sardar or other person liable in respect of such costs to pay also the cost of providing such escort to accompany the labourer or other person during his return journey as the Magistrate may think necessary.

CHAPTER V.

ENGAGEMENT OF EMIGRANTS OTHERWISE THAN UNDER CHAPTERS III AND IV.

Special provisions as to engagement of emigrants through garden-sardars.

90. When a notification has been published under section 3, prohibiting the recruiting, engaging, inducing or assisting, natives of India, or any specified class of natives of India, to emigrate from the whole or any specified part of a Province to any labour-district or any specified portion of a labour-district otherwise than in accordance with the provisions of this Act therein specified, the Local Government may, with the previous sanction of the Governor General in Council by notification in the local official Gazette, declare that specially employed garden-sardars, not being garden-sardars holding certificates granted under Chapter IV, may, in the part of the Province specified in the notification under section 3, engage persons on behalf of their employers and assist persons so engaged to emigrate to such labour-district or specified portion of a labour-district subject to the following provisions, namely :—

(*a*) The employer shall grant each garden-sardar specially employed by him under this section a permit in writing, in such form as the Chief Commissioner of Assam may by rule prescribe, signed and dated, specifying the name of the garden-sardar and the recruiting district in which alone the garden-sardar may engage persons on behalf of his employer and assist them to emigrate :

Provided that no such permit shall be granted to a garden-sardar who has not resided at least six months on the estate of the employer.

(*b*) The employer shall in the permit certify that the garden-sardar named therein is a person employed on his estate, and shall specify the nature of his employment and the period of his residence on the estate.

(*c*) Every permit shall be presented by the garden-sardar named therein in person for countersignature to the Inspector or to the Magistrate having jurisdiction in the place where the garden-sardar resides, and shall not be valid or have effect unless and until it is so countersigned.

(*d*) The Inspector or Magistrate may refuse to countersign any permit, for any reasons, to be recorded in writing, which he may think sufficient, and shall refuse to countersign a permit unless he is satisfied that the garden-sardar named therein is employed on the estate of his employer and has resided at least six months

on the estate, and is a fit person to engage persons and assist them to emigrate

(*e*) When a permit is duly countersigned, the garden sardar named therein may proceed to the recruiting district and there himself engage persons *on behalf of his employer and assist them to emigrate*, subject to the provisions of this Chapter

(*f*) Every garden sardar so authorized shall, on his arrival in the recruiting district and before he engages any person to emigrate, in person or in writing, report his arrival, and the place at which he intends principally to reside, to the District or Sub divisional Magistrate, and shall, at least three days before his departure from the recruiting district, similarly report his intended departure and furnish a list, in such form as the Local Government may prescribe, containing the names and descriptions of the persons whom he has engaged and is assisting to emigrate

(*g*) Every garden sardar shall either himself accompany all persons so engaged by him to the labour district in which the estate of his employer is situate, or send them there in charge of another garden sardar holding a permit under this section from the same employer to engage persons in the same recruiting district

(*h*) No permit shall have effect for more than six months from the date of countersignature by the Inspector or Magistrate as aforesaid

(*i*) Any permit granted under this section may be cancelled in the recruiting district by the District Magistrate for any reason, to be recorded in writing, which he may think sufficient The fact of cancellation shall be endorsed by such Magistrate as aforesaid on the permit, and the permit shall thereupon become invalid and cease to have effect A District Magistrate who cancels a permit under this clause shall give notice of such cancellation to the employer by whom it was signed and to the Inspector or Magistrate by whom it was countersigned

[1] **91.** Notwithstanding anything contained in section 90, the Local Government may, by notification in the local official Gazette, declare that— *Power to Local Government to relax certain provisions of Act*

(*a*) in *the case of contractors, sub-contractors* and recruiters holding licenses granted under Chapter III, any of the requirements of that Chapter, or,

(*b*) in the case of garden sardars holding certificates granted under Chapter IV or holding permits granted and countersigned under section 90, any of the requirements of that Chapter or of that section, as the case may be

may be dispensed with or relaxed on such conditions as may be prescribed in the notification

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[1] Substituted by Act XI of 1908 s 2, see post

Saving of engagement of emigrants otherwise than under foregoing provisions of Act.

92. Subject to the provisions of section 3 and of any notification issued thereunder, nothing in this Act shall be deemed to prohibit any person from engaging or assisting natives of India to emigrate to a labour-district otherwise than in accordance with the provisions of Chapters III and IV, and of sections 90 and 91.

Application of Act to persons engaged under this Chapter.

93. *(1)* The following provisions of this Act shall apply to the transport and employment of persons engaged or assisted to emigrate under this Chapter and not bound by labour-contracts, namely :—

(*a*) in Chapter VI (Transport) :—

(*i*) sections 94 and 95 (routes and transport by sea) ;

(*ii*) sections 96 to 99 (passenger licenses) ;

(*iii*) sections 100 and 101 (Embarkation Agent's power and returns by master) ;

(*iv*) section 103 (medical officer) ;

(*v*) section 104 (delay in departure) ;

(*vi*) sections 107 to 110 (Magistrates' powers) ;

(*vii*) section 112 (disinfection) ;

(*viii*) section 113 (excess passengers) ;

(*ix*) section 114 (breaches of Act and rules) ; and

(*x*) section 116 (delegation of magisterial powers) ;

(*b*) in Chapter VII (Labour-districts) :—

(*i*) section 122 (registers and returns) ;

(*ii*) section 123 (inspection) ; and

(*iii*) sections 159, 161 and 162 (repatriation) ;

(*c*) in Chapter VIII (Rules) :—

all powers conferred by section 163, except in so far as the same relate exclusively to labourers and their dependants ;

(*d*) in Chapter IX (Penalties and Procedure) :—

(*i*) sections 176, 177, 181, 182 and 183 (offences connected with transport by river) ; and

(*ii*) sections 185 and 186 (offences by employers) ; and

(*e*) in Chapter X (Miscellaneous) :—

(*i*) section 215 (recovery of sums due) ; and

(*ii*) sections 218 to 223 (fines, etc., Assistant Inspector, officers' powers, exemption, prior notifications and repeal).

(*2*) Except as indicated in sub-section (*1*), nothing in Chapters II to IV inclusive or in Chapters VI to X inclusive shall apply to persons engaged or assisted to emigrate under this Chapter and not bound by labour-contracts.

CHAPTER VI

TRANSPORT

Routes, etc

94. Every person who forwards or accompanies labourers or emigrants under Chapter V or their dependants to a labour district shall forward or take them by the prescribed route, or one of the prescribed routes and shall conform to the rules made under this Act, in so far as the said rules apply to himself and to the persons emigrating under his charge

Routes to be followed and rules observed

Transport by River

95. Nothing in this Chapter shall apply to the transport by sea of natives of India to the labour districts

Transport by sea to labour districts

96. (*1*) No master shall receive more than twenty passengers being natives of India, on board his vessel for the purpose of transporting them to a labour district, unless a license to carry passengers in his vessel has been granted to him under this Chapter by an Embarkation Agent duly empowered in that behalf by the Local Government

Vessels to carry more than twenty passengers to be ordinarily licensed

(*2*) The Local Government may, by notification in the local official Gazette, exempt from the provisions of this section any vessel or class of vessels

97. (*1*) The master or owner of any vessel who desires to obtain a license under this Chapter to carry passengers in his vessel shall make a written application for a license to an Embarkation Agent empowered as aforesaid

Application for license

(*2*) Every application made under sub-section (*1*) shall state such particulars respecting the vessel as the Local Government may, by rule, prescribe

98. Where the Embarkation Agent to whom an application is made under section 97, sub section (*1*), is of opinion that the vessel is in all respects suitable for carrying passengers, being natives of India, to a labour district he shall give to the master of the vessel a license to carry passengers therein, specifying the number of passengers, being natives of India, who may be received on board

Grant of license

99. Such fee, not exceeding sixteen rupees, as the Local Government may, with reference to the size of the vessel, by rule, direct, shall be paid for every license granted under section 98, and no license so granted shall be in force for more than one voyage

Fee for license

Provided that a license may, with the previous sanction of the Local Government, be granted under the said section to the master of any vessel for any term not exceeding one year, on payment of such fee, not exceeding one hundred rupees and on such conditions, as the Local Government may, by rule prescribe

Embarkation Agent may limit number to be received on board on any particular voyage.

100. (*1*) Any Embarkation Agent may, in accordance with such rules as the Local Government may make in this behalf, direct by order in writing, that on any particular voyage or part of a voyage, any master licensed under this Chapter shall not receive on board his vessel more than a specified number of passengers, being natives of India, which number shall be less than the number specified in the license granted to the master.

(*2*) In computing the number of persons on board a vessel, two children under the age of ten years shall, for the purposes of this Chapter, be reckoned as one person only.

Master to make returns.

101. Every master licensed under this Chapter shall keep such lists, submit such returns, and make such reports in regard to the passengers carried in his vessel, as the Local Government may, by rule, prescribe.

Provisions, clothing, medical and other officers, cooks, etc.

102. Every master licensed under this Chapter shall have on board his vessel carrying labourers and their dependants such supplies of provisions and clothing, and such medical and other officers, cooks and attendants, as the Local Government may, by rule, prescribe.

Medical officer to be licensed.

103. No medical officer shall be appointed to any vessel in respect of which a license is granted under this Chapter, unless he holds a license granted by such authority as the Local Government may appoint in that behalf: and any medical officer so licensed shall be forthwith removed from his appointment on the requisition of any officer empowered by the Local Government, to make such a requisition.

Departure of Passenger-vessels and procedure during voyage.

Embarkation Agent may order departure of vessel if delay occurs.

104. Where it appears to an Embarkation Agent that the departure of a vessel in respect of which a license is granted under this Chapter is unduly delayed beyond the date fixed by the order of a Superintendent or of the Local Government, or notified by advertisement in the public press, for such departure, he may order the master of the vessel to proceed on his voyage at once.

Master to receive way-bills from Embarkation Agent.

105. (*1*) No master licensed under this Chapter shall proceed on a voyage with his vessel carrying labourers until he has received from the Embarkation Agent the way-bills relating to all labourers on board in respect of whom way-bills are required by this Act or by the rules made thereunder.

(*2*) The Embarkation Agent and the master of the vessel shall together personally ascertain that the number of such labourers on board corresponds with the number entered in the way-bill.

(*3*) The Embarkation Agent shall send a copy of every way-bill granted under sub-section (*1*) to the Magistrate of the labour-district to which such labourers are proceeding.

Labourers not finally to leave vessel at any

106. No master licensed under this Chapter shall cause or permit any labourer entered in any such way-bill finally to leave his vessel at any place other than that named in the way-bill as the destination of the labourer:

Provided that nothing in this section shall be deemed to prevent the master of a vessel from permitting such labourers to disembark at any place on the voyage so long as the disembarkation is not intended or known to be likely to be final, nor to prevent the final disembarkation of any such labourers or the transfer of such labourers with their dependants to another vessel in case of accident or unavoidable necessity

place other than that mentioned in way bill

Provided also that every such accident or necessity as aforesaid shall forthwith be reported by the master to the Embarkation Agent by whom he was licensed, and to the nearest Magistrate in the district within which the accident has occurred or the necessity has arisen

107. (*1*) Every master licensed under this Chapter shall stop his vessel carrying passengers, being natives of India, at such places, being places where *a Magistrate is stationed, and shall, unless the Magistrate permits him to* depart earlier, remain at each such place for such time, not exceeding six hours of daylight, as the Local Government may direct

Master to stop his vessel at certain places where there is a Magistrate

(*2*) The master shall, on arriving at such a place as aforesaid, immediately report to the Magistrate the number of the crew and other persons on board, the general state of their health, and the number of deaths (if any) which have occurred among the persons who embarked on board his vessel

108. (*1*) Any Magistrate may, while a vessel in respect of which a license is granted under this Chapter is within the local limits of his jurisdiction, go on board the vessel and inspect it and all persons, being natives of India, on board

Power for Magistrates to inspect vessels

(*2*) The master and officers of any such vessel as aforesaid shall afford to the Magistrate every facility for inspection and give him all such information as he may reasonably require respecting the labourers or other persons on board, the deaths (if any) which have occurred on board, and any other facts affecting the health of the passengers

109. Any Magistrate may, while a vessel in respect of which a license is granted under this Chapter is within the local limits of his jurisdiction, regulate the communication between the vessel and the land, and prohibit all persons from leaving the vessel, and all persons on land from proceeding on board

Power for Magistrates to regulate communication between vessels and land

110. (*1*) Any Magistrate may, if he has reason to believe that any passengers, being natives of India on board a vessel within the local limits of his jurisdiction, in respect of which a license is granted under this Chapter, are or are likely to be, affected with any dangerously infectious or contagious disease, detain the vessel and depute the civil medical officer of the district or any other qualified medical officer to inspect such passengers as aforesaid and to report on their health, stating whether any or what measures are requisite for the removal or prevention of the dangerously infectious or contagious disease

Power for Magistrates to detain vessels for inspection and to detain sick native passengers

(*2*) On receiving the report of the medical officer so deputed, the Magistrate may order any such passenger as aforesaid who is suffering from any

Power of Inspector or Magistrate to require labourer who has executed such contract to appear before him.

120. The Inspector or Magistrate may, either on the application of the employer or the labourer or of his own motion, require the employer to cause any labourer, who has entered into a labour-contract under section 118 and is employed upon any estate within the local limits of the jurisdiction of the Inspector or Magistrate, to appear before him for the purpose of having his labour-contract verified; and, if the labourer applies to the Inspector or Magistrate to cancel his labour-contract and shows cause which the Inspector or Magistrate, after considering any cause which may be shown by the employer to the contrary, considers sufficient to justify its cancellation, the Inspector or Magistrate shall cancel the same as provided by section 119.

Labour-contracts executed within labour-district before Inspector or Magistrate.

121. (*1*) Nothwithstanding the provisions of section 118, an employer may enter into a labour-contract with any native of India in a labour-district for a term not exceeding four years commencing from the date of the execution of the labour-contract, if he appears, or deputes some person to appear on his behalf, with the native of India before the Inspector or Magistrate within the local limits of whose jurisdiction the estate to which the labour-contract refers is situated.

(*2*) The Inspector or Magistrate shall thereupon explain the labour-contract to the native of India, and shall, if satisfied that he is competent to enter into and understands the same, call upon him and the employer or the person deputed as aforesaid to execute it in his presence; and, if they execute it, shall attest the execution with his signature.

(*3*) An abstract of every labour-contract executed under this section shall be entered in a register to be kept by the Inspector or Magistrate for the purpose; and one copy of the labour-contract shall then be given to the labourer, and the other to his employer or the person deputed as aforesaid.

(*4*) In respect of every labour-contract, an abstract whereof is registered under section 118 or under this section, the employer who executes the labour contract in person or the person deputed to execute the same on his behalf shall pay to the Inspector or Magistrate such fee, not exceeding one rupee, as the Local Government may direct.

Employers' Returns and Magistrates' Inspections.

Registers to be kept and returns made by employers.

122. (*1*) Every employer shall keep such registers of all labourers and other persons employed on the estate of which he is in charge, and of their dependants, in such form, and shall make to the Inspector, within the local limits of whose jurisdiction the estate is situate, such periodical returns in writing as the Local Government may, by rule, prescribe.

(*2*) The Inspector may examine the registers so kept and muster all labourers and other persons employed on any estate within the said local limits, and may verify the accuracy of the entries in the registers, or in any prescribed periodical return.

Power for Inspector, etc., to in-

123. Any Inspector or Magistrate, or any person authorized by either of them in writing in this behalf, may enter and inspect all lands and houses

wholly or partially used by or for labourers or by or for any other natives of India employed on any estate, and may require that all such labourers or other natives of India as aforesaid, or any particular class or classes of individual or individuals of them, shall be brought before him, and that a copy of the labour contract of any labourer shall be produced, and may make any inquiries which he thinks proper touching the condition or treatment of such labourers or other natives of India as aforesaid or any of them, and the employer shall be bound to comply with every requisition and to answer every inquiry so made to the best of his ability

spect lands and houses and to make requisitions and in quiries

Regulation of Labour

Schedule of daily tasks to be prepared

124. (*1*) Every employer shall prepare a schedule specifying the daily task to be executed by each labourer employed on the estate of which the employer is in charge, and may, from time to time, alter any schedule so prepared

(*2*) One copy of every schedule prepared under sub section (*1*) shall be filed in a book, which shall be open to the examination of the Inspector, and translations thereof in such languages as the Chief Commissioner of Assam may direct, shall be affixed in some conspicuous place accessible to the labourers to whom the schedule relates

(*3*) The minimum payment for each daily task shall be the quotient resulting from dividing the monthly wage of the labourer concerned by the number of working days in the current month The number of working days in a month shall be ascertained by deducting the number of Sundays from the whole number of days in the month

Limitation on tasks and payment of wages

125. (*1*) No labourers shall be bound to labour more than six days in one week, or more than six consecutive hours, or more than nine hours in one day

(*2*) Every employer shall, on six days in each week, provide for each labourer work sufficient to enable him to earn at least his minimum daily wage, and, failing such due provision of work, the labourer shall if he can show that he was able and willing to labour for the same be entitled to claim his minimum daily wage

(*3*) On or before the fifteenth day of each month the employer shall pay to every labourer in his employment the wages earned by the labourer during the preceding month and still unpaid

Provisions for revision of schedule by Inspector subject to appeal to Committee

126. (*1*) Where the Inspector considers that any schedule of daily tasks, or any part thereof, is unreasonable, he may, by order in writing direct that such reduction as is specified in the order be made in the scheduled daily tasks

(*2*) The employer shall at once make the reduction so ordered, but may, if dissatisfied with the order of the Inspector, by notice in writing, require the Inspector to summon a Committee to inquire into the schedule

(*3*) Every Committee summoned under sub-section (*2*) shall consist of—

(*a*) the Inspector,

Power of Inspector or Magistrate to require labourer who has executed such contract to appear before him.

120. The Inspector or Magistrate may, either on the application of the employer or the labourer or of his own motion, require the employer to cause any labourer, who has entered into a labour-contract under section 118 and is employed upon any estate within the local limits of the jurisdiction of the Inspector or Magistrate, to appear before him for the purpose of having his labour-contract verified; and, if the labourer applies to the Inspector or Magistrate to cancel his labour-contract and shows cause which the Inspector or Magistrate, after considering any cause which may be shown by the employer to the contrary, considers sufficient to justify its cancellation, the Inspector or Magistrate shall cancel the same as provided by section 119.

Labour-contracts executed within labour-district before Inspector or Magistrate.

121. (*1*) Notwithstanding the provisions of section 118, an employer may enter into a labour-contract with any native of India in a labour-district for a term not exceeding four years commencing from the date of the execution of the labour-contract, if he appears, or deputes some person to appear on his behalf, with the native of India before the Inspector or Magistrate within the local limits of whose jurisdiction the estate to which the labour-contract refers is situated.

(*2*) The Inspector or Magistrate shall thereupon explain the labour-contract to the native of India, and shall, if satisfied that he is competent to enter into and understands the same, call upon him and the employer or the person deputed as aforesaid to execute it in his presence; and, if they execute it, shall attest the execution with his signature.

(*3*) An abstract of every labour-contract executed under this section shall be entered in a register to be kept by the Inspector or Magistrate for the purpose; and one copy of the labour-contract shall then be given to the labourer, and the other to his employer or the person deputed as aforesaid.

(*4*) In respect of every labour-contract, an abstract whereof is registered under section 118 or under this section, the employer who executes the labour contract in person or the person deputed to execute the same on his behalf shall pay to the Inspector or Magistrate such fee, not exceeding one rupee, as the Local Government may direct.

Employers' Returns and Magistrates' Inspections.

Registers to be kept and returns made by employers.

122. (*1*) Every employer shall keep such registers of all labourers and other persons employed on the estate of which he is in charge, and of their dependants, in such form, and shall make to the Inspector, within the local limits of whose jurisdiction the estate is situate, such periodical returns in writing as the Local Government may, by rule, prescribe.

(*2*) The Inspector may examine the registers so kept and muster all labourers and other persons employed on any estate within the said local limits, and may verify the accuracy of the entries in the registers, or in any prescribed periodical return.

Power for Inspector, etc., to in-

123. Any Inspector or Magistrate, or any person authorized by either of them in writing in this behalf, may enter and inspect all lands and houses

wholly or partially used by or for labourers or by or for any other natives of India employed on any estate, and may require that all such labourers or other natives of India as aforesaid, or any particular class or classes of individual or individuals of them, shall be brought before him, and that a copy of the labour contract of any labourer shall be produced, and may make any inquiries which he thinks proper touching the condition or treatment of such labourers or other natives of India as aforesaid or any of them, and the employer shall be bound to comply with every requisition and to answer every inquiry so made to the best of his ability

spect lands and houses and to make requisitions and inquiries.

Regulation of Labour

124. (*1*) Every employer shall prepare a schedule specifying the daily task to be executed by each labourer employed on the estate of which the employer is in charge, and may, from time to time, alter any schedule so prepared

Schedule of daily tasks to be prepared

(*2*) One copy of every schedule prepared under sub section (*1*) shall be filed in a book, which shall be open to the examination of the Inspector, and translations thereof, in such languages as the Chief Commissioner of Assam may direct, shall be affixed in some conspicuous place accessible to the labourers to whom the schedule relates

(*3*) The minimum payment for each daily task shall be the quotient resulting from dividing the monthly wage of the labourer concerned by the number of working days in the current month The number of working days in a month shall be ascertained by deducting the number of Sundays from the whole number of days in the month

125. (*1*) No labourers shall be bound to labour more than six days in one week or more than six consecutive hours, or more than nine hours in one day

Limitation on tasks and payment of wages

(*2*) Every employer shall, on six days in each week, provide for each labourer work sufficient to enable him to earn at least his minimum daily wage, and, failing such due provision of work, the labourer shall if he can show that he was able and willing to labour for the same be entitled to claim his minimum daily wage

(*3*) On or before the fifteenth day of each month the employer shall pay to every labourer in his employment the wages earned by the labourer during the preceding month and still unpaid

126. (*1*) Where the Inspector considers that any schedule of daily tasks, or any part thereof, is unreasonable, he may, by order in writing direct that such reduction as is specified in the order be made in the scheduled daily tasks

Provisions for revision of schedule by Inspector subject to appeal to Committee.

(*2*) The employer shall at once make the reduction so ordered, but may, if dissatisfied with the order of the Inspector, by notice in writing, require the Inspector to summon a Committee to inquire into the schedule

(*3*) Every Committee summoned under sub-section (*2*) shall consist of—

(*a*) the Inspector,

(2) Where the period during which a labourer is so absent exceeds the total number of thirty days in any one year, and the employer, as soon as that number is exceeded, gives the labourer a notice in writing to that effect, each day of absence in excess of that number shall be added to the term of the labour-contract, unless the labourer refunds to the employer the sum of one anna-and-a-half for each day so in excess

(3) The Inspector shall, from time to time, when visiting the estate, on the application of the employer, and may also at any other time, on the application of either the employer or a labourer, endorse on the labour-contract of the labourer, after such inquiry as he may think necessary, the number of days so to be added to the term thereof

Provided that an employer, who omits to apply for such endorsement as aforesaid at the time when the Inspector is actually visiting the estate, shall, in the absence of sufficient reasons to the contrary shown to the satisfaction of the Inspector, be debarred from applying afterwards for endorsement in so far as days of absence which occurred prior to the date of the Inspector's last visit are concerned

Discharge of labourer permanently incapacitated.

131. (1) *Where, in the opinion of the Inspector*, a labourer is permanently incapacitated for the performance of his labour-contract or any material part thereof, the Inspector shall certify to that effect in writing and deliver the certificate to the employer of the labourer or to the representative of the employer, and, from the date of the certificate, the labour-contract of the labourer shall wholly determine

(2) Every labourer whose labour-contract so determines shall be entitled to receive from his employer such sum, not exceeding three months' wages, as the Inspector may award.

(3) Every sum so awarded and any such subsistence-allowance as is provided for by section 129 or section 130 may be recovered from the employer of the labourer concerned

Accommodation for Labourers

House accommodation, water-supply, and sanitary arrangements for labourers.

132. Every employer shall be bound to provide for the labourers employed on the estate of which he is in charge such house-accommodation, water-supply and sanitary arrangements as the Local Government may, by rule, prescribe

Supply of food grain for labourers.

133. (1) Where the food-grain commonly used by any class of labourers is not procurable by them at reasonable prices in the local markets near the estate on which they are employed, their employer shall be bound to supply them therewith at a reasonable price

(2) The Local Government may, by notification in the local official Gazette, declare, either generally, or for each district or part of a district, what shall, for the purposes of this section, be deemed to be a reasonable price.

Provision for rationing.

134. (*1*) Subject to such rules as the Local Government may make in this behalf, any Inspector may, by order in writing,—

(*a*) direct that, on any specified estate within the local limits of his jurisdiction, all labourers or any specified class of labourers shall be furnished by their employers with rations, cooked or uncooked, on such scale and for such period, not exceeding three months from the date of their arrival on the estate, as may be specified in the order;

(*b*) direct that any specified labourers shall be exempt from the effect of any general order so made, if he is satisfied that the labourer is able to earn a full wage and desires to provide himself with proper and sufficient food;

(*c*) direct that any specified labourer shall be furnished with rations for any term not exceeding six months, and renew that direction for a like term.

(*2*) The cost of each labourer's ration furnished to him in accordance with any direction given under sub-section (*1*) shall be calculated at current rates as determined by the Inspector, and shall be deducted from any wages earned by the labourer during the period for which the direction is in force.

Provision for hospital-accommodation and medical attendance.

135. Where, in the opinion of the Inspector, an employer does not provide such hospital-accommodation in a suitable place, available to the labourers employed upon the estate of which he is in charge, or does not make such provision for the medical treatment of his labourers, as the Local Government may direct, the Local Government may require the employer to contribute to the support of a central hospital to be established, or to the pay of a medical officer to be appointed, such sum, proportionate to the number of labourers so employed, as it thinks fit.

Inquiry whether employer has failed to provide accommodation, etc., as required by the rules.

136. (*1*) Any Inspector or Assistant Inspector, who is himself a Magistrate, may, with respect to any estate situate within the local limits of his jurisdiction, inquire whether the employer in charge of the estate has provided for the labourers house-accommodation, water-supply, sanitary arrangements, food-grains and rations in accordance with any rules made by the Local Government under section 132 or 134 or any notification issued under section 133.

(*2*) At the instance of any Inspector, or Assistant Inspector, a similar inquiry may be made by a Magistrate.

(*3*) Every inquiry under this section shall be made at some place on, or within ten miles of, the estate to which it relates, and shall be conducted and dealt with as if it were an inquiry by a Magistrate under the Code of Criminal Procedure, 1898.[1] V of 1898.

[1] Acts, Vol. V.

Localities unfit for the Residence of Labourers

137. (*1*) Where, in the opinion of the Inspector, an estate or portion of an estate situate within the local limits of his jurisdiction is, at any time, by reason of climate, situation or condition, unfit for the residence of labourers, or of any particular class of labourers, he shall give notice, in writing, of his opinion to the District Magistrate, who shall forthwith by order in writing, summon a Committee to inquire into the matter

Report by Inspector and inquiry by Committee.

(*2*) The District Magistrate may also of his own motion summon a Committee, where, either from his own observation or upon the report of an Inspector, Magistrate or Medical officer, he is of opinion that an estate or portion of an estate is, for any of the reasons aforesaid, unfit for the residence of labourers or of any particular class of labourers

(*3*) Every Committee summoned under this section shall consist of—

(*a*) the District Magistrate ,

(*b*) the Inspector ,

(*c*) the civil medical officer of the district , and

(*d*) one or more employers of labourers

(*4*) Provided that, if the District Magistrate is unable to procure the service on the Committee of any employer of labourers he may, with the previous sanction of the Commissioner of the division, appoint one or more persons qualified to serve on the Committee

138. Where it appears to the Local Government, upon the report of an Inspector, Magistrate or medical officer,—

Inquiry by Committee by order of Local Government

(*a*) that an estate or portion of an estate is, for any of the reasons given *in section* 137, unfit for the *residence* of labourers or of any particular class of labourers, or

(*b*) that the percentage of mortality of labourers or of any particular class of labourers employed on an estate o on portion of an estate is such as would justify the institution of an inquiry by a medical officer under section 112,

the Local Government may direct the District Magistrate to summon a Committee under section 137 , and the District Magistrate shall forthwith proceed to summon a Committee accordingly

139. Every Committee summoned under section 137 or section 138 shall, as soon as may be, inquire into the healthiness of the estate or portion to which the order appointing it relates, and shall hear and record such information on the subject as the owner of the estate or portion, or the employer in charge thereof, or the Inspector, may desire to place before it

Proceedings of Committee.

140. (*1*) Where the Committee, or a majority thereof, is of opinion that the estate or portion, or any part of the estate or portion, is unfit for the residence of labourers generally, or of any particular class of labourers, the Committee shall record a finding to that effect

Finding of Committee and consequences.

(2) Where a finding has been recorded under sub-section (*1*), no labourer, or no labourer of the particular class to which the finding relates, as the case may be, shall be bound by any labour-contract to labour on the estate or portion, or part of the estate or portion, as the case may be, which is found unfit for the residence of such labourers.

(3) Where a labourer is released under sub-section (2) from the performance of his labour-contract to labour on any estate, he shall be bound to labour on any other estate belonging to the same owner or in charge of the same employer and situate in the same labour-district; or, where the finding relates only to a portion of an estate, on any other portion of the same estate. Where the finding relates to the whole of any estate and the owner has no other estate or the employer has charge of no other estate in the same labour-district on which the labourer may be employed, the Inspector shall cancel the labour-contract of the labourer, and shall thereupon make an endorsement that it has been cancelled on the labourer's copy of the contract, or, if that copy is not forthcoming, shall give to the labourer a certificate to the like effect.

Power for Local Government to pass orders on proceedings of Committees.

141. The Local Government may call for the proceedings of any Committee summoned under section 137 or section 138, and, if the finding of the Committee is not unanimous, the Local Government may record any finding thereon which the Committee was competent to record, and the finding so recorded by it shall have the same effect as the finding of a Committee under section 140.

Excessive mortality on estates.

142. Where it appears to the Local Government or to the District Magistrate that the number of labourers employed on an estate who have died thereon, or on any portion thereof, during the last preceding twelve months, or that the average annual number of labourers employed on an estate who have died thereon, or on any portion thereof, during the last preceding three years, bears a larger proportion to the whole number of labourers employed thereon during such period of twelve months or three years as the case may be, than seven per cent., the Local Government, or the District Magistrate, may depute the civil medical officer of the district or any other qualified medical officer to inquire into and report on the following matters, namely:—

(*a*) the cause or causes of the mortality;

(*b*) the want (if any) of due care or precaution, and of the adoption of proper and available sanitary measures on the part of the owner of the estate or portion thereof, or of the employer in charge of the estate or portion, causing or contributing to the mortality;

(*c*) the fitness or otherwise of the estate or portion for the residence of labourers:

Provided that, when the mortality among any particular class of labourers employed on an estate or any specified portion of an estate exceeds the percentage specified in this section, the Local Government, or the District Magis-

trate, may direct an inquiry under this section limited to that particular class of labourers.

143. The medical officer deputed under section 142 shall, as soon as may be, inquire into the matters referred to therein and shall hear and record such information relating to those matters as the owner of the estate or portion, or the employer in charge of the same, or the Inspector, may place before him, and shall visit and inspect the estate or portion, and shall make a report expressing the reasons for his opinion, and transmit the same to the Local Government together with the information so recorded and the notes of his inspection of the estate or portion, and the Local Government shall cause the employer to be furnished with a certified copy of such report

Medical officer to report

144. Where the Local Government after perusal and consideration of the said report, information and notes, is of opinion that the mortality was caused by the want, on the part of the owner of the estate or portion, or the employer in charge of the same, of due care or precaution or of the adoption of proper and available sanitary measures, or that the estate or portion is unfit for the residence of labourers or of any particular class of labourers, it may make a declaration in writing to that effect, and the declaration so made shall have the same effect as the finding of a Committee under section 140

Power for Local Government to *declare estate* unfit for residence

145. (*1*) Where it appears to the Inspector that any estate or smaller area, which has been found, or declared under any of the foregoing provisions, to be unfit for the residence of labourers or of any particular class of labourers, has become fit for the residence of labourers or of that class of labourers, as the case may be, he shall, with the previous sanction of the District Magistrate of the district in which the estate or area is situate, give a certificate to that effect signed by him

Power for Inspector to certify fitness of estate or portion found or de*clared to be* unfit

(*2*) On the grant of a certificate under sub-section (*1*), all such labourers as are mentioned or referred to in section 140, sub-section (*3*), whose contracts have not been cancelled by the Inspector under that section, shall again be bound to labour on the estate or area, as the case may be, to which the certificate relates, for the unexpired periods (if any) of their respective contracts.

Complaints made by Labourers

146. Where a labourer states to his employer, or any person acting on behalf of his employer, that he desires to make a complaint to the Inspector or to a Magistrate of personal ill-usage or breach, on the part of his employer, or such person as aforesaid, of any of the provisions of this Act or of any rule thereunder, the person to whom the statement is made shall forthwith send the labourer to the Inspector or Magistrate within the local limits of whose jurisdiction the estate wherein he is employed is situate

Labourer wishing to complain of personal ill-usage or breach of Act to be sent by employer to Inspector or Magistrate

Provided that, where more than ten labourers at any one time so state their desire to make such a complaint, the person to whom the statement is

made may, instead of sending them to such Inspector or Magistrate as aforesaid, give the Inspector or Magistrate notice, in writing, of their complaint.

Inspector or Magistrate how to proceed in case of complaint.

147. (*1*) Where a complaint is made to an Inspector or Magistrate under section 146, or where an Inspector or a Magistrate receives, under that section, notice in writing of a complaint, or where an Inspector or a Magistrate has other reasonable grounds for believing that an employer, or person acting on his behalf, has personally ill-used, or committed any such breach as is mentioned in section 146 in respect of a labourer, the Inspector or Magistrate shall, as soon as may be, proceed to some place, not more than ten miles from the principal place of business of the employer, situate within the local limits of his jurisdiction, and inquire into the matter complained of:

Provided that, if the place in which an Inspector or Magistrate has reasonable grounds for believing that the ill-usage or breach has been committed is situate beyond the local limits of his jurisdiction, he shall, instead of inquiring into the matter himself, forthwith send information thereof in writing to the Inspector or Magistrate within the local limits of whose jurisdiction the ill-usage or breach has been committed.

(*2*) For the purposes of every inquiry made under sub-section (*1*), the Inspector or Magistrate may summon and examine any person as a witness.

Untrue or frivolous complaints.

148. (*1*) Where, upon an inquiry made under section 147 on the complaint of a labourer, the Inspector or Magistrate is of opinion that the complaint is untrue or frivolous or vexatious, he shall dismiss the complaint; and in that event shall endorse on the employer's copy of the complainant's labour-contract the number of days during which the complainant has been absent from work in consequence of the inquiry, and the number of days so endorsed shall be added to the period for which the complainant contracted to labour.

(*2*) Every endorsement made under sub-section (*1*) shall be conclusive evidence that the complainant has absented himself from his labour voluntarily and without reasonable cause during the number of days so endorsed.

Award of compensation to employer.

149. (*1*) Where a complaint is dismissed under section 148, the Inspector or Magistrate may award to the employer any reasonable compensation on account of the expense incurred by him in connection with the complaint, and shall endorse the amount of the compensation so awarded on the complainant's copy of the labour-contract.

(*2*) The complainant shall be bound to pay the amount awarded under sub-section (*1*); and, in default of payment, his labour-contract shall not be deemed to have determined until he was worked off the amount at the rate of one day's labour for each four annas of the same.

Complaints disclosing grounds for further proceedings.

150. (*1*) Where, upon an inquiry made under section 147 by a Magistrate or by an Inspector who is a Magistrate, the Magistrate or Inspector is of opinion that there is sufficient ground for proceeding with the case, he shall dispose of the same according to law.

(*2*) Where the Inspector is not a Magistrate and is of such opinion as aforesaid, he shall without delay send the complainant and his witnesses (if any)

to the nearest Magistrate, who shall thereupon dispose of the case according to law

Recovery of arrears of wages and compensation

151. (*1*) Where, upon the complaint of a labourer it is proved to the satisfaction of a Magistrate that the wages of the labourer are in arrear for two months after the first day of the month succeeding the month in which they were earned, or where it is proved to the satisfaction of a Magistrate that the wages of a person whose labour contract has determined have been withheld for any period after determination, the Magistrate may award to such labourer or person as aforesaid the amount which appears to be then due to him, and also, by way of compensation such further sum not exceeding that amount as to the Magistrate seems just

(*2*) On the failure of an employer to pay any amount awarded under sub section (*1*), the Magistrate may recover the same from the employer and pay it to the labourer or other person concerned

Power to cancel contract on conviction of employer or accumulation of arrears of wages

152. (*1*) Where it is proved to the satisfaction of a Magistrate—

(*a*) that an employer, or any person placed by an employer in authority over a labourer, has been convicted of any offence causing injury to the person or loss or damage to the property of the labourer, and, under the Code of Criminal Procedure, 1898[1] triable exclusively by the Court of Session or

(*b*) that an employer or any person placed by an employer in authority over a labourer has been twice convicted of any such offence as aforesaid against the labourer and under the said Code triable by a Magistrate, or

(*c*) that the wages of a labourer are in arrear to an amount exceeding the whole of his wages for four months, or

(*d*) that a labourer has been compelled by his employer or by any person placed by his employer in authority over him to perform any labour while he was unfit for it, or has been subjected to ill usage by his employer or any such person as aforesaid,

the Magistrate may, if he thinks fit, on the application of the labourer aggrieved, cancel the labour contract of the labourer and award to him compensation not exceeding thirty rupees

(*2*) Every cancellation under sub section (*1*) shall be certified by the Magistrate on the back of the labourer's copy of the labour contract, or, if that copy is not forthcoming by writing under the Magistrate's hand delivered to the labourer

Power to Local Government to cancel contracts of labourers whose condi

153. (*1*) Where it appears to the Local Government that the condition of the labourers on an estate, or of any class or any considerable number of them, is unsatisfactory owing to the insufficiency of their earnings to maintain them in health and comfort, the Local Government, after such inquiry as it

[1] Gen Acts, Vol V

tion is unsatisfactory owing to insufficiency of earnings.

thinks necessary, may direct that the labour-contracts of all such labourers be cancelled.

(*2*) No labour-contract shall be cancelled under this section until the employer has been given an opportunity for showing cause why it should not be cancelled.

Power to cancel contract of labourer related to labourer whose contract is cancelled or determined.

154. Where the labour-contract of a labourer is or has been cancelled, or has determined under section 119, section 120, section 131 or section 152, the Inspector or Magistrate, as the case may be, may, in his discretion and on the application of the labourer concerned, cancel the labour-contract of any labourer employed on any estate belonging to the same employer, being the wife, husband, father, mother, son or daughter of the labourer whose labour-contract is or has been so cancelled or has so determined.

Determination of Labour-contracts.

Endorsement of determination on labour-contract.

155. (*1*) Whenever a labour-contract determines, the employer shall endorse on the labourer's copy of the contract the fact of determination, or, if that copy is not forthcoming, shall give to the labourer a certificate to the like effect; and, where the employer refuses or neglects to do so, the Inspector may, on application by the labourer, make such endorsement or give such certificate as aforesaid.

(*2*) The employer shall give to the Inspector notice in writing of such determination as aforesaid within one month after the date thereof.

Power to redeem labour-contract.

156. (*1*) Where a labourer is able and desirous to redeem the unexpired term of his labour-contract, or the labour-contract of any member of his family, by payment of a sum equivalent to the value of the unexpired term, the labourer may require his employer to take him, or allow him to go, before the Inspector within the local limits of whose jurisdiction he is employed; and, on his depositing such sum as aforesaid with the Inspector, the Inspector shall give notice to the employer to show cause within one week why the labourer should not be released from his contract.

(*2*) If no sufficient cause is shown as aforesaid, the Inspector shall require the labourer's copy of the contract to be produced, and on production thereof shall endorse thereon a certificate that he has been released under this section from his contract, or, if that copy is not forthcoming, shall deliver to the labourer a certificate under his hand to the like effect; and shall, in either case, hold the sum so deposited to the credit of the employer of the labourer.

(*3*) The value of the unexpired term of a labour-contract shall, for the purposes of this section, be deemed to be the aggregate amount of one rupee for every month of the unexpired portion of the first year, of three rupees for every such month of the second year, and of five rupees for every such month of the third and fourth years of the original term of the contract:

Provided that, if a person who has completed four years' service under a labour-contract enters into a new labour-contract for one year, he shall not be entitled to redeem the unexpired portion of such new labour-contract un-

120 on the ground of coercion, undue influence, fraud or misrepresentation or of any irregularity in connection with his recruitment or the execution of his contract.

(2) Any expenditure incurred under sub-section (*1*) may be recovered from the employer on whose estate the labourer concerned was under contract to labour.

Repatriation of persons not under labour-contract wrongfully recruited.

161. (*1*) Where it appears to the Inspector or Magistrate, on complaint made before him or otherwise, that there is reason to suppose that any native of India, not being a labourer, has been induced by any coercion, undue influence, fraud or misrepresentation to emigrate to a labour-district, the Inspector or Magistrate shall call upon the employer on whose behalf the person was made or induced to emigrate, or to whose estate he is being or has been conveyed, or, if the employer cannot be communicated with without undue delay, upon his agent or any one who is accompanying or conveying the person or has forwarded or otherwise assisted him to emigrate to any labour-district or estate, to appear before the Inspector or Magistrate and show cause why the person should not be sent back to his native district.

(2) Where the Inspector or Magistrate is of opinion, after such inquiry as he thinks sufficient, that such person as aforesaid was engaged or compelled or induced to emigrate by any such coercion, undue influence, fraud or misrepresentation as would justify his being sent back to his native district, the Inspector or Magistrate shall record a finding to that effect and shall, if necessary, detain the person and shall send him, if he so desires, together with any other persons dependent on him, back to his native district.

(3) Subject to any orders which the Local Government may make in this behalf, any expenditure incurred under this section may be recovered from the employer on whose behalf the person concerned was induced to emigrate or to whose estate he was being or had been conveyed, or, if the employer is not known, or if there is no employer, the person who is accompanying or conveying the person concerned or has forwarded or otherwise assisted him to emigrate to any labour-district or estate.

...nge- ...may ...be ...escorting persons ordered to be repatriated.

162. (*1*) Where a labourer or other person is sent back to his native district under section 158, 160 or 161, the Inspector or Magistrate may provide an escort or make such other arrangements as he may think necessary for ensuring that the labourer or person is actually conveyed to his native district.

(2) Any expenditure incurred under sub-section (*1*) may be recovered as part of the amount expended in sending the labourer or other person back to his native district.

CHAPTER VIII

RULES

163. (*1*) In addition to the powers hereinbefore conferred, the Local Government may make rules to carry out any of the purposes and objects of this Act in the Province

General power for the Local Government to make rules

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(*a*) define and regulate the powers and duties of the several officers appointed by it under this Act,

(*b*) prescribe what returns and reports shall be made under this Act by any such officers as aforesaid or by any contractors or local agents within the Province, and the form in which they shall be respectively so made,

(*c*) prescribe the forms of all registers, licenses, certificates, permits and notices required under this Act with respect to the Province,

(*d*) prescribe the fees to be paid for any license granted under this Act by any officer appointed by it, and for the registration of labourers or their dependants in any district in the Province,

(*e*) prescribe the particulars to be registered by a registering officer in respect of each person who is brought before him in any district in the Province for registration as a labourer or dependant

(*f*) provide for the management and regulation of contractors' depôts and of hospital depôts situate within the Province, and for the support and medical treatment of labourers and their dependants passing through such depôts,

(*g*) provide for the accommodation, food, clothing and medical treatment of all labourers and their dependants detained on account of sickness by order of a Magistrate at any place within any district in the Province,

(*h*) prescribe the conditions upon which any officer appointed by it may grant licenses to masters of vessels carrying passengers to any labour district, provide for the ventilation, cleanliness and water-supply of such vessels in respect of which licenses are granted hereunder by any such officer, and prescribe the lists, returns and reports to be kept and submitted by the masters of such vessels,

(*i*) prescribe the description, quantity and quality of provisions, medical drugs and other stores to be taken on board such vessels carrying labourers when such vessels are within the Province, and the daily allowance to be issued to each labourer and dependant during the journey through the same, prescribe the number of officers, cooks and other servants to be carried on board such vessels, and provide generally for the accommodation of labourers and their dependants on such vessels,

(*j*) provide for the detention and inspection of such vessels and of all the passengers, being natives of India, carried in such vessels while in transit through the Province;

(*k*) declare the routes through the Province by which labourers, emigrants under Chapter V and dependants shall travel to the labour-districts;

(*l*) prescribe the clothing to be supplied to labourers, emigrants under Chapter V and dependants while proceeding to the labour-districts through the Province;

(*m*) require depôts and rest-houses to be provided by and at the cost of employers, contractors or agents for the accommodation of labourers, emigrants under Chapter V and dependants on any prescribed route, and provide for the sanitation and superintendence of such depôts and rest-houses;

(*n*) prescribe the mode and the numerical strength of the parties in which labourers, emigrants under Chapter V and dependants are to travel, the arrangements to be made by and at the cost of employers, contractors or agents for facilitating the journey of labourers, emigrants under Chapter V and dependants, the length of daily marches by road, and the provision to be made by and at the cost of employers, contractors or agents for the carriage of labourers, emigrants under Chapter V and dependants when suffering from sickness;

(*o*) regulate the food to be supplied by and at the cost of employers, contractors or agents to labourers, emigrants under Chapter V and dependants, and the provision to be made for the proper cooking of such food;

(*p*) regulate the water-supply to be maintained by and at the cost of employers, contractors or agents for the use of labourers, emigrants under Chapter V and dependants;

(*q*) require suitable hospital-accommodation, medical treatment and maintenance to be provided by and at the cost of employers, contractors or agents for labourers, emigrants under Chapter V or dependants when suffering from sickness on their journey to a labour-district;

(*r*) regulate the arrangements to be made by and at the cost of employers, contractors or agents in case of the death of any labourer, emigrant under Chapter V or dependant during the journey to a labour-district;

(*s*) prescribe the house-accommodation, water-supply, sanitary arrangements and amount and kind of food-grains to be provided by employers for their labourers, and regulate the rations to be supplied to labourers under this Act in the labour-districts in the Province; and

(*t*) provide for the hospital accommodation and medical treatment of labourers in such labour districts, and prescribe the nature, quality and quantity of medical drugs and other stores to be provided for such labourers

(*3*) Where an employer, contractor, agent or other person fails to perform any act which he is by any rule made under sub section (*2*) required to perform, the Local Government may cause the act to be performed and the cost may be recovered from the employer, contractor or agent, as the case may be

(*4*) In making any rule under this Act, the Local Government may direct that every breach thereof shall be punishable with fine not exceeding in any case five hundred rupees

(*5*) All rules made by the Local Government under this Act shall be published in the local official Gazette, and, on such publication shall have effect as if enacted by this Act

CHAPTER IX

Penalties and Procedure

164. Whoever knowingly recruits, engages, induces or assists, or attempts to recruit, engage, induce or assist, any person to emigrate in contravention of any of the provisions of this Act or of any notification for the time being in force thereunder, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both

Recruitment etc, in contravention of Act or notification

165. Whoever, being a recruiter, wilfully gives false information to a Registering officer regarding the name, caste, native district or village of any person produced before such officer for registration as a labourer, or regarding any other particulars required to be entered in the register prescribed by section 34, sub section (*2*), shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both

Wilful misdescription by recruiter

166. Whoever, being a recruiter,—

Recruiter removing etc unregistered person

(*a*) removes, or attempts to remove, any person to a depôt before he has been registered under section 34, or induces or attempts to induce him to go to a depôt or to leave the local limits of the jurisdiction of the Registering officer before whom he ought to be brought under section 33, or aids or attempts to aid him in going to a depôt or in leaving any such local limits as aforesaid before he has been so registered, or

(*b*) induces or attempts to induce any person who has been so registered to proceed to any place other than the depôt which has been established by the contractor on whose behalf the recruiter is licensed or conveys or attempts to convey him to such place ,

(*j*) provide for the detention and inspection of such vessels and of all the passengers, being natives of India, carried in such vessels while in transit through the Province;

(*k*) declare the routes through the Province by which labourers, emigrants under Chapter V and dependants shall travel to the labour-districts;

(*l*) prescribe the clothing to be supplied to labourers, emigrants under Chapter V and dependants while proceeding to the labour-districts through the Province;

(*m*) require depôts and rest-houses to be provided by and at the cost of employers, contractors or agents for the accommodation of labourers, emigrants under Chapter V and dependants on any prescribed route, and provide for the sanitation and superintendence of such depôts and rest-houses;

(*n*) prescribe the mode and the numerical strength of the parties in which labourers, emigrants under Chapter V and dependants are to travel, the arrangements to be made by and at the cost of employers, contractors or agents for facilitating the journey of labourers, emigrants under Chapter V and dependants, the length of daily marches by road, and the provision to be made by and at the cost of employers, contractors or agents for the carriage of labourers, emigrants under Chapter V and dependants when suffering from sickness;

(*o*) regulate the food to be supplied by and at the cost of employers, contractors or agents to labourers, emigrants under Chapter V and dependants, and the provision to be made for the proper cooking of such food;

(*p*) regulate the water-supply to be maintained by and at the cost of employers, contractors or agents for the use of labourers, emigrants under Chapter V and dependants;

(*q*) require suitable hospital-accommodation, medical treatment and maintenance to be provided by and at the cost of employers, contractors or agents for labourers, emigrants under Chapter V or dependants when suffering from sickness on their journey to a labour-district;

(*r*) regulate the arrangements to be made by and at the cost of employers, contractors or agents in case of the death of any labourer, emigrant under Chapter V or dependant during the journey to a labour-district;

(*s*) prescribe the house-accommodation, water-supply, sanitary arrangements and amount and kind of food-grains to be provided by employers for their labourers, and regulate the rations to be supplied to labourers under this Act in the labour-districts in the Province; and

(*i*) provide for the hospital accommodation and medical treatment of labourers in such labour districts, and prescribe the nature, quality and quantity of medical drugs and other stores to be provided for such labourers

(3) Where an employer, contractor, agent or other person fails to perform any act which he is by any rule made under sub section (2) required to perform, the Local Government may cause the act to be performed and the cost may be recovered from the employer, contractor or agent, as the case may be

(4) In making any rule under this Act, the Local Government may direct that every breach thereof shall be punishable with fine not exceeding in any case five hundred rupees

(5) All rules made by the Local Government under this Act shall be published in the local official Gazette, and, on such publication shall have effect as if enacted by this Act

CHAPTER IX

Penalties and Procedure

164. Whoever knowingly recruits, engages, induces or assists, or attempts to recruit, engage, induce or assist, any person to emigrate in contravention of any of the provisions of this Act or of any notification for the time being in force thereunder, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both

Recruitment etc in contravention of Act or notification

165. Whoever, being a recruiter, wilfully gives false information to a Registering officer regarding the name, caste, native district or village of any person produced before such officer for registration as a labourer, or regarding any other particulars required to be entered in the register prescribed by section 34, sub section (2), shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both

Wilful misdescription by recruiter

166. Whoever, being a recruiter,—

Recruiter removing etc, unregistered person

(*a*) removes, or attempts to remove any person to a depôt before he has been registered under section 34, or induces or attempts to induce him to go to a depôt or to leave the local limits of the jurisdiction of the Registering officer before whom he ought to be brought under section 33, or aids or attempts to aid him in going to a depôt or in leaving any such local limits as aforesaid before he has been so registered, or

(*b*) induces or attempts to induce any person who has been so registered to proceed to any place other than the depôt which has been established by the contractor on whose behalf the recruiter is licensed or conveys or attempts to convey him to such place,

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees in respect of every such person.

Recruiter not supplying proper food, etc.

167. (*1*) Whoever, being a recruiter or a person deputed by a recruiter to accompany labourers to a depôt fails to provide any labourer or any dependant whom he accompanies on the journey to the depôt with proper and sufficient food and lodging, or otherwise ill-treats the labourer or dependant on the journey, shall be punishable with fine which may extend to fifty rupees; and, in default of payment of the fine within twenty-four hours, with imprisonment for a term which may extend to one month.

(*2*) The convicting Magistrate may award the whole or any portion of any fine levied under sub-section (*1*) as compensation to the labourer in respect of whom, or of whose dependant, the failure or ill-treatment has occurred.

Labourer refusing without reasonable cause to execute contract at depôt.

168. (*1*) Any labourer engaged by a recruiter who, having been registered under section 34, without reasonable cause refuses or neglects when at the depôt to execute, in accordance with the provisions of section 44, a labour-contract in conformity with the terms made known to him when he was registered, shall be punishable with fine which may extend to the amount of the expense incurred in registering him and conveying him to the depôt and maintaining him therein; and, in default of payment of the fine, with imprisonment for a term which may extend to one month.

(*2*) Any labourer so punished may be forthwith discharged from the depôt.

(*3*) Every fine levied under sub-section (*1*) shall be paid to the contractor, sub-contractor or recruiter by whom such expense as aforesaid was incurred.

Labourer refusing to execute contract with garden-sardar.

169. (*1*) Any labourer registered under section 69 who, without reasonable cause, refuses or neglects to execute in accordance with the provisions of section 72, a labour-contract in conformity with the terms made known to him when he was registered, shall be punishable with fine which may extend to twenty rupees or to the amount of the expense reasonably incurred by the garden-sardar in procuring his registration, whichever amount is least.

(*2*) Every fine levied under sub-section (*1*) shall be paid to the garden-sardar by whom such expense as aforesaid was incurred.

[Garden-sardar failing to report himself, etc.]

170. Whoever, being a garden-sardar holding a certificate under Chapter IV,—

(*a*) fails, within fourteen days after his arrival in the local area within which he is authorized to enter into contracts under this Act, to report himself to the local agent (if any) specified in his certificate; or

(*b*) fails, without sufficient cause, to return to his employer within the time specified in his certificate; or

(*c*) fails to account for the money advanced to him by his employer for the purpose of engaging labourers;

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both ,

and may, if a labourer under a labour-contract, on the application of his employer or of a person acting on behalf of the employer, be sent back or made over to his employer for the purpose of completing his term of service

171. Whoever, being a garden-sardar holding a certificate under Chapter IV or a person appointed under section 55 or section 76 to accompany labourers to a labour-district,— Garden sardar, etc, abandoning labourers, etc

(*a*) wilfully abandons any labourer or his dependant on the way to the labour-district , or

(*b*) removes or attempts to remove any person to a labour-district before he has executed a labour-contract in accordance with section 72 ; or

(*c*) induces or attempts to induce any person to go to a labour-district or to leave the local area specified in the certificate of the garden-sardar before he has executed a labour-contract as aforesaid, or aids or attempts to aid him in proceeding to a labour district or in leaving any such local area as aforesaid before he has executed such a labour-contract ,

shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to fifty rupees, or with both

172. (*1*) Whoever, being a garden-sardar holding a certificate under Chapter IV,— Garden sardar making over labourers to contractors, etc

(*a*) makes over to any contractor, sub-contractor or recruiter, or to the garden-sardar or local agent of any employer other than the employer by whom his certificate was granted, or, without authority from his employer, to any other person, any person whom he has engaged or intends to engage as a labourer , or

(*b*) places any such person as aforesaid in a contractor's depôt or in the place of accommodation provided by a recruiter in accordance with the provisions of section 29, sub-section (2) , or

(*c*) allows any person engaged as a labourer by any contractor or sub-contractor or recruiter to share the accommodation provided by him under section 62 ,

shall be punishable with imprisonment for a term which may extend to six months, or with fine or with both, and his certificate may be impounded by the convicting Magistrate

(*2*) Any Magistrate impounding a certificate under this section shall send it for cancellation to the Magistrate by whom it was countersigned

173. Any garden-sardar holding a certificate under Chapter IV or person appointed by him as provided by section 76, who accompanies labourers to the labour-districts and fails to present a way-bill as required by section Garden sardar failing to comply

with instructions endorsed on way-bill.

79, sub-section (*1*), or to carry out any of the instructions entered in the way-bill, shall be punishable with fine which may extend to twenty rupees.

Unlawful engagement of emigrants by garden-sardar.

174. Whoever—

(*a*) being a garden-sardar employed under a permit to engage persons and assist them to emigrate in accordance with the provisions of section 90, infringes any of the provisions of that section ; or

(*b*) being a garden-sardar employed under the control of an agency or association to engage persons and assist them to emigrate in accordance with the provisions of section 91, infringes any of the conditions prescribed by or under that section ;

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees for every such infringement.

Local agent or selecting agent working with contractor.

175. Whoever, being a local agent licensed under section 64 or a selecting agent licensed under section 65, retains or acquires any interest in the business of a contractor or works for a contractor for hire or reward shall be punishable with fine, which may extend to one thousand rupees.

Master receiving native passengers on board in contravention of Act.

176. (*1*) Whoever,—

(*a*) being a master not licensed under section 97, in contravention of section 96, sub-section (*1*), knowingly receives on board his vessel more than twenty passengers being natives of India ; or,

(*b*) being a master licensed as aforesaid, knowingly receives on board his vessel any such passengers in excess of the number specified in his license or in any order of an Embarkation Agent under section 100 for the purpose of transporting them to a labour-district ;

shall be punishable with fine which may extend to two hundred rupees for each passenger so received.

(*2*) Nothing in this section applies to the master of a vessel exempted under section 96, sub-section (*2*).

Fraudulent alteration of vessel after grant of license.

177. Whoever, being a master licensed under section 98, with intent to defraud, does or suffers to be done, any act or thing whereby the state of his vessel is altered, so that the vessel is unfit for the accommodation of the number of passengers specified in his license or in any order made under section 100 by an Embarkation Agent, shall be punishable with fine which may extend to two hundred rupees.

Master not complying with section 102.

178. Whoever, being a master licensed under section 98, proceeds on his voyage with his vessel carrying labourers without having complied with the provisions of section 102, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees.

Master not complying with order under section 104.

179. Whoever, being a master licensed under section 98, fails to comply with an order of an Embarkation Agent made under section 104, shall be punishable with fine which may extend to two hundred rupees for each day

during which he fails to comply with the order after the day on which the order was received by him

180. Whoever, being a master licensed under section 98, causes or permits a labourer finally to leave his vessel in contravention of the provisions of section 106, shall be punishable with fine which may extend to two hundred rupees for each labourer so leaving his vessel — Master permitting labourer to leave vessel contrary to section 106.

181. Whoever, being a master licensed under section 98, wilfully omits to comply with the provisions of section 107, shall be punishable with fine which may extend to two hundred rupees — Master wilfully omitting to stop vessel at certain places

182. Whoever disobeys any order made under section 109 by a Magistrate shall be punishable with fine which may extend to two hundred rupees — Person disobeying Magistrate's order as to communication between vessel and land

183. Whoever, being a master licensed under section 98, or a medical officer in charge of a vessel, wilfully omits or neglects to obey or enforce on board of the vessel any provision of this Act or any rule thereunder, shall be punishable with fine which may extend to two hundred rupees — Master or medical officer disobeying or neglecting to enforce rules

184. Whoever, having executed a labour contract,— — Labourer deserting etc after registration.

(*a*) deserts while on his journey from the district in which he has executed the labour-contract to a labour district, or,

(*b*) without reasonable cause, refuses or neglects to proceed to the place where he is to labour or to embark in any vessel when called upon to do so by an Embarkation Agent,

shall be punishable with imprisonment for a term which may extend to one month

185 Whoever, being an employer, refuses or wilfully omits to keep such registers or to make such periodical returns in writing to the Inspector as may be prescribed by any rule made under this Act, or knowingly keeps an incorrect register or makes an incorrect return, or wilfully omits to prepare, file or affix a schedule as required by section 124, shall be punishable with fine which may extend to two hundred rupees — Employer refusing or omitting to keep registers etc

186 Whoever, being an employer, or acting under the orders or on the behalf of an employer, wilfully obstructs any entry, inspection or inquiry, or omits to comply with any requisition, made under section 123, shall for every such offence be punishable with fine which may extend to two hundred rupees — Employer or other person obstructing inspection under section 123

187. Whoever, being an employer, or acting under the orders or on the behalf of an employer, compels any labourer to perform any labour, knowing that he is at the time unfit to perform such labour, shall be punishable with fine which may extend to two hundred rupees — Employer or other person compelling labourer to perform labour for which he is unfit

Persons buying labourer's rations.

188. Whoever buys any rations which have been furnished under section 134 to a labourer, and whoever, being a labourer, sells any rations so furnished to him shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees.

Employer omitting to provide house-accommodation, etc

189. (*1*) Whoever, being an employer, wilfully omits to provide house-accommodation, water-supply, sanitary arrangements, food-grains or rations in accordance with the provisions of this Act or any rule thereunder, shall be punishable with fine which may extend to five hundred rupees; and the convicting Magistrate may order him to comply with such provisions within a reasonable time to be fixed in the order.

(*2*) If the employer wilfully omits to comply with the order within the time so fixed, he shall be punishable with fine which may extend to one hundred rupees for each day during which the omission continues.

(*3*) If the employer fails to pay the fine imposed under sub-section (*2*), the person on whose account he has been acting shall be liable to pay the same.

Employer neglecting to provide hospital-accommodation.

190. Whoever, being an employer, fails to provide such hospital-accommodation for, or to make such provision for the medical care and treatment of, labourers, as is required by any rule made under this Act, shall be punishable with fine which may extend to two hundred rupees for each week during which the default continues.

Employer causing labourer to reside on estate declared unfit for residence.

191. Where any estate or portion thereof has been found under section 140, or declared under section 144, unfit for the residence of labourers, or any class of labourers, as the case may be, every employer who, until a certificate has been given under section 145, causes or permits such labourers or class of labourers to reside or labour upon the estate or portion shall be punishable with fine which may extend to two hundred rupees.

Unlawful absence from work.

192. Every employer may, on or before the fifteenth day of each month, send to the Inspector a statement in writing containing the names of all or any of his labourers who, voluntarily and without reasonable cause, absented themselves from labour during the preceding month, and specifying the periods of absence. When any employer so sends any statement, he shall, at the same time, notify to each labourer concerned the fact that he has done so.

(*2*) Every Inspector who receives any statement so sent shall, if the employer so desires, when next visiting the estate on which the labourers to whom the statement relates are employed, inquire into each case of absence in the presence of the labourer concerned, and, if satisfied that the labourer has voluntarily and without reasonable cause absented himself, shall, unless the labourer consents to forfeit to his employer the sum of four annas for each day of absence, endorse the days of absence on the labour-contract of the labourer, and add them to the term of the contract.

(*3*) The Inspector may also, at any time other than that of his visit to the estate, on the application of either the employer or the labourer, after due

inquiry, endorse the days of absence on, and add them to the term of, the labour-contract

Provided that an employer who omits to apply for the endorsement of such days on any labourer's labour-contract when the inspector is actually visiting the estate shall be debarred, in the absence of sufficient reasons to the contrary shown to the satisfaction of the Inspector, from applying afterwards for such endorsement so far as days of absence reported in statements sent to the Inspector previous to the date of his last visit are concerned

Explanation —Ill treatment of a labourer by his employer, or failure of the employer to fulfil any condition of the labour contract binding on the employer, shall be deemed to be reasonble cause within the meaning of this section

Labourer absent without cause [1]

193 Whoever, being a labourer, voluntarily and without reasonable cause, absents himself from his labour for more than seven consecutive days, or for more than seven days in any one month, shall be punishable with imprisonment for a term which may extend to fourteen days, and in case the absence has extended to twenty days in any two consecutive months, shall be punishable with imprisonment for a term which may extend to one month

Explanation —Ill treatment of a labourer by his employer, or failure of the employer to fulfil any condition of the labour contract binding on the employer shall be deemed to be reasonable cause within the meaning of this section.

Statement of deserters

194 Every employer may, on or before the fifteenth day of each month, send to the Inspector a statement in writing, in such form as the Local Government may prescribe, containing the names of all or any of his labourers who have deserted from his service during the preceding month, or who, having deserted at any previous time, have been absent during the preceding month, or who, having deserted during the month, or previously, have been arrested or have returned to his service during the preceding month

Deserter may be apprehended without warrant

195 (*1*) Where any labourer deserts from his employer's service, the employer, or any person authorised by him in this behalf, may, without a warrant and without the assistance of any police officer, arrest the labourer wherever he may be found

Provided that, if the labourer is found within five miles of the place where a Magistrate resides or in the service of another employer, he shall not be arrested without warrant

(*2*) Every police officer shall assist in arresting any such labourer if so required by the employer or person authorised by him in this behalf

(*3*) Whoever arrests a labourer under this section shall without delay take him to the police station nearest to the place of the arrest, and if he fails to do so shall be punishable with fine which may extend to two hundred rupees

Procedure at police station

196 (*1*) The police officer in charge of such station, shall, on the appearance of the parties, take down in writing the statements of the labourer arrested and of the person arresting the labourer

(*2*) If the labourer admits the contract and does not claim to be forwarded to a Magistrate, the police-officer may permit the person arresting the labourer to convey him to the estate on which he is under contract to labour, and shall then transmit the statements recorded and a report of his proceedings to the Magistrate within the local limits of whose jurisdiction the police-station is situated.

(*3*) If the labourer does not admit the contract or claims to be forwarded to the Magistrate, or if, for any reason, it appears to the police-officer desirable that he should be so forwarded, the police-officer shall forthwith send the labourer, together with the statements recorded as aforesaid and a report of his proceedings, to the Magistrate within the local limits of whose jurisdiction the police-station is situated.

(*4*) If the estate on which the labourer is under contract to labour is not situate within the local limits of the jurisdiction of the Magistrate referred to in sub-section (*2*) or sub-section (*3*), the Magistrate shall forward the statements and report received by him from the police to the Magistrate within the local limits of whose jurisdiction such estate is situate. He shall also when the labourer has been sent to him by the police, either forward the labourer to, or take security for his appearance before, such other Magistrate as aforesaid.

(*5*) On receipt of such statements and report the Magistrate within the local limits of whose jurisdiction the estate is situate may, after making such inquiry as he considers desirable into the case, pass such order in accordance with law as he thinks proper. For the purpose of any such inquiry the Magistrate may, if he thinks fit, in any case in which the labourer arrested has not been sent to or appeared before him, require the labourer to appear before him.

Procedure on complaint of desertion.

197. Where an employer or a person acting on behalf of an employer complains to a Magistrate that a labourer has deserted from the employer's service, the Magistrate may, without previously examining the complainant, issue a summons for the attendance of the labourer, or a warrant for his arrest and fix a day for hearing the complaint.

Punishment for desertion.

198. (*1*) Whoever, being a labourer, deserts from his employer's service, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to twenty rupees, or with both.

(*2*) For a second conviction for a like offence the offender shall be punishable with imprisonment for a term which may extend to two months, or with fine which may extend to fifty rupees, or with both.

(*3*) For a third and every subsequent conviction for a like offence the offender shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

Compensation for

199. (*1*) Where it appears to a Magistrate trying a labourer for deserting from his employer's service that such labourer was arrested without sufficient

cause, the Magistrate may impose a fine, which may extend to fifty rupees, on the employer or person acting on his behalf by whom or at whose instance the labourer was arrested

wrongful arrest

(2) The Magistrate may in his sentence direct that the whole or any part of the fine levied under sub section (1) be paid by way of compensation to the labourer arrested

200. Where a labourer has actually suffered imprisonment for terms amounting in the whole to six months for desertion from his employer's service, the Inspector shall cancel the labour contract of the labourer, and shall endorse on his copy of the contract a certificate of the cancellation, or, if that copy is not forthcoming he shall give to the labourer a written certificate to the like effect

Cancellation of contract by desertion

201. Whoever, being a labourer, is guilty of habitual drunkenness, or wilfully disregards any sanitary regulation approved by the Inspector and duly notified for the guidance of the labourers on the estate on which the labourer is employed, shall be punishable with imprisonment for a term which may extend to one week, or with fine which may extend to five rupees

Penalty for drunkenness or neglect of sanitary regulations

202. (1) The employer of a labourer sentenced to imprisonment for any offence under this Act, or any person authorised to act in this behalf for the employer, may apply to the Magistrate that the labourer be made over to him for the purpose of completing his labour contract

Portion of sentence may be cancelled on application of employer

(2) On an application being made under sub section (1) the Magistrate may, if he thinks fit, order that the labourer be made over or forwarded to his employer, and in that case the Magistrate shall cancel the sentence passed on the labourer or any unexpired portion of the same and shall endorse on his copy of the labour contract a certificate of the cancellation, or, if that copy is not forthcoming, shall give him a written certificate of the cancellation

(3) Nothing in this section shall be deemed to affect the provisions of section 200

203. Every employer who obtains an order of a Magistrate for the making over or forwarding of any labourer shall be liable to defray the expense (if any) incurred in the making over or forwarding of the labourer and shall, before the order is issued, deposit with the Magistrate a sum sufficient in the Magistrate's opinion to defray that expense

Expense of forwarding labourer to be paid by employer

204. (1) On the expiry of any sentence of imprisonment passed on a labourer for any offence under this Act, the Magistrate shall subject to the provisions of section 200, make the labourer over to any person appointed on the part of his employer to take charge of him, and no conviction under this Act or imprisonment thereon shall, save as aforesaid, operate as a release to any labourer from the terms of his labour contract

Conviction not to operate as a release

(2) Where no person is present on the part of the employer to take charge of the labourer on the expiry of his sentence, the Magistrate shall forward the labourer to the principal place of business of his employer situate within the local limits of the Magistrate's jurisdiction

(3) Any expenditure incurred under sub-section (2) may be recovered from the employer of the labourer concerned.

Endorsement on contract of imprisonment for offence against Act.

205. (1) Where a labourer is sentenced to imprisonment for any offence under this Act other than an offence under section 193 or section 198, the Magistrate shall endorse on the employer's copy of the labour-contract the term for which the labourer is so sentenced.

(2) When a labourer is convicted of unlawful absence under section 193 or desertion under section 198, the Magistrate shall endorse the period of the labourer's absence or desertion on the employer's copy of the labour-contract.

(3) In a case of desertion falling under sub-section (2) no endorsement shall be made if the labour-contract has been cancelled under section 200, or if more than one year has elapsed from the expiry of the original term of the labour-contract or more than three years have elapsed from the date when the labourer deserted, to the date of his conviction.

(4) The term of imprisonment to which a labourer is sentenced under section 193 or section 198 shall be deducted from the term of service to which he is bound by his original contract or by any endorsement made under sub-section (2).

(5) No endorsement shall be made in a case of desertion under sub-section (2) unless the employer has duly reported the particulars of the desertion as provided in section 191.

Endorsement on contract of period of any other imprisonment.

206. Where a labourer is sentenced to imprisonment for any time not exceeding three years for any offence other than an offence under this Act, the Court or Magistrate so sentencing him shall, if the employer or a person acting on behalf of the employer so requests, endorse on the employer's copy of the labour-contract the period for which the labourer is sentenced to imprisonment, or, if that period exceeds the unexpired term of the labour-contract on the date of the sentence, so much of that period as is equal to the unexpired term.

Periods endorsed to be added to terms of contract.

207. The periods endorsed under section 205 or section 206 shall be added to the term for which the labourer contracted to serve: and the labourer shall not be deemed to have performed his labour contract until he has served for the term specified therein in addition to the periods so endorsed.

Other person enticing away, harbouring or employing labourer under labour-contract.

208. (1) Whoever, knowing that a labourer is bound by his labour-contract to labour for any employer, voluntarily entices or attempts to entice the labourer to leave his employer, or harbours or employs any labourer who has in contravention of the terms of his labour-contract, left his employer, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

(2) The convicting Magistrate may, in his discretion, award to the employer with whom the labourer has contracted the whole or any part of any fine levied under sub-section (1).

Failure to forward contract

209. Whoever, being bound under section 118, sub-section (2), to forward any labour-contract to the Inspector, or under section 120 to cause any labourer

to appear before the Inspector or Magistrate, wilfully omits or neglects so to forward the labour contract to the Inspector at or within the time specified, or to cause the labourer to appear before the Inspector or Magistrate within a reasonable time, shall be punishable with fine which may extend to two hundred rupees

under section 118 or to cause labourer to appear under section 120

Employer or other person neglecting to send labourer before Magistrate as provided by section 146

210 Whoever, being bound by section 146 to send any labourer before or to give notice of any complaint to, an Inspector or Magistrate, refuses or neglects so to send the labourer or to give the notice, shall be punishable with fine, which may extend to two hundred rupees

Employer refusing to endorse labour contract etc

211 Whoever, being an employer,—

(*a*) refuses or wilfully neglects to endorse the labourer's copy of his labour contract as required by section 155, or

(*b*) detains a labourer after the determination of his labour contract, or

(*c*) fails to give the Inspector notice in writing of such determination as aforesaid within one month after the date thereof,

shall be punishable with fine which may extend to two hundred rupees

Employer or other person neglecting to comply with request of labourer wishing to redeem unexpired term.

212 Whoever, being an employer or a person acting for an employer, refuses or neglects to comply with the request of a labourer made under section 156, shall be punishable with fine which may extend to two hundred rupees

Abetment

of 1860

213 Whoever abets, within the meaning of the Indian Penal Code,[1] any offence against this Act or any rule hereunder, shall be punishable with the punishment provided for the offence

Place of trial for offences

214 Whoever commits any offence against this Act or any rule hereunder shall be triable for the offence in any place in which he may be found, as well as in any other place in which he might be tried under any law for the time being in force

CHAPTER X

Miscellaneous

Recovery of sums due under Act.

215 Every sum recoverable under this Act from any person may be recovered on application to a Magistrate having jurisdiction where the person is for the time being resident, by the distress and sale of any moveable property within the limits of the Magistrate's jurisdiction belonging to that person

Wages due under labour-contract a charge upon estate

216 All arrears of wages due under any labour contract shall be a charge upon the estate upon which the labourer to whom the labour contract relates has been engaged to labour, or, if he has engaged to labour upon any one of

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[1] Genl Acts, Vol. I

several estates managed by the same employer, shall be a charge upon that estate upon which he for the time being actually labours.

Owner of estate for time being has all rights and remedies in respect of labour-contracts charged on it.

217. (*1*) Whenever an estate on which any labourer has under this Act contracted to labour is transferred by act of parties or operation of law, or devolves, the person to whom it is so transferred or on whom it devolves shall be bound by the labour-contract of the labourer in the same manner and to the same extent as the person by or from whom it is transferred or devolves would have been bound thereby, and shall have the same rights and remedies under it as such person would have had thereunder, if the estate had not been transferred or had not devolved.

(*2*) No person who has ceased to be the owner of the estate upon which any labourer has under this Act contracted to labour shall be liable in respect of any breach of the labour-contract of the labourer which occurs after he has ceased to be owner.

Application of proceeds of fines, fees and rates.

[1] **218.** The proceeds of any fines, fees and rates under this Act which may be credited to Government shall be expended, in such manner as the Governor General in Council may direct, on paying the salaries and allowances of officers appointed under this Act and their pensionary and leave allowances, on meeting the cost of sending labourers and other persons back to their native districts, and generally on defraying the expenses of carrying out the purposes and objects of this Act and any rules made thereunder and not otherwise.

Duty of Assistant Inspector.

219. Every Assistant Inspector shall perform all such duties and exercise all such powers of an Inspector as he is authorised in writing by the Inspector to perform or exercise.

Powers of officers under this Act to be exerciseable from time to time.

220. All powers conferred by this Act on any Superintendent, Medical Inspector, Emigration Agent or other officer may be exercised from time to time as occasion requires.

Power to exempt labour-district from Act.

221. The Chief Commissioner of Assam may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, declare that any labour-district or local area therein shall, on and with effect from a day to be fixed in the notification, cease to be subject to all the provisions or any specified provision of this Act; and from the day so fixed such labour-district or local area as aforesaid shall cease to be subject to the provisions of this Act or to the provision so specified, as the case may be.

Notifications not to affect prior acts, etc.

222. The publication of any notification under this Act shall not affect any act done, offence committed or proceedings commenced before such publication.

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[1] Substituted by Act XI of 1908, s. 3, *see post.*

223 The enactments mentioned in the second schedule are hereby repealed to the extent specified in the fourth column thereof Repeal

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THE FIRST SCHEDULE

FORM OF LABOUR-CONTRACT BETWEEN LABOURER AND EMPLOYER

(*See section 5*)

This contract, made under the Assam Labour and Emigration Act, 1901 between *A B* (hereinafter called the labourer) of the one part and* [*C D* (representative, local agent or garden sardar) on behalf of] *E F* (hereinafter called the employer) on the other part witnesseth that the said* [representative or local agent or garden sardar on behalf of the said] employer doth hereby promise the said labourer that if he, the said labourer do remain and labour† on the $\frac{\text{X estate}}{\text{Y estates}}$‡ of his said employer in the labour district of for the term of years from the date of the execution of this contract, he, the said employer will from the date on which the said labourer commences to labour on the said $\frac{\text{estate}}{\text{estates}}$ pay or cause to be paid to the said labourer monthly wages at the rate of Rs § for a completed daily task regulated in accordance with the provisions of the said Act || and when such task as aforesaid is not completed, monthly wages calculated at the same rate in proportion to the amount of work actually done and that during the said period he, the said employer will supply to the said labourer rice at a price of Rs per maund and will faithfully comply with all rules regarding house accommodation medical treatment and the supply of food-grains or rations to the said labourer which the Local Government may prescribe, and this contract further witnesseth that the said labourer doth hereby, in consideration of the aforesaid promise agree so to remain and labour for the said employer In witness whereof the said parties to these presents have hereunto set their hands at this day of 19

Signature of Labourer and of Employer (or of *his Representative, Local Agent or Garden-Sardar*)

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* Parts in brackets to be omitted if the contract is made without the intervention of a representative local agent or garden sardar

† State nature of labour if the labourer is to be required to work under the ground.

‡ As the case may be

§ State rates for various periods of contract

|| [During the first six months of the contract the employer is to pay a full wage for half the daily task, unless an Inspector certifies that the labourer is able to perform a full task]

THE SECOND SCHEDULE

Enactments repealed

(See section 223)

Year	No	Short title	Extent of repeal
		Acts of the Governor General in Council	
1882	1	The Assam Labour and Emigration Act, 1882	The whole
1891	12[1]	The Repealing and Amending Act, 1891	So much of section 2 and the first schedule as relates to Act 1 of 1882
1893	7	The Inland Emigration Act, 1893	The whole.
1897	5[2]	The Repealing and Amending Act, 1897	So much of section 2 and of the first and second schedules as relate to Act 1 of 1882 and Bengal Act 1 of 1889
		Act of the Lieutenant Governor of Bengal in Council	
1889	1	The Inland Emigrants Health Act, 1889	The whole

APPENDIX —*List of Notifications publishing rules made under the Assam Labour and Emigration Act, 1901 (6 of 1901), for Assam*

No of Notification	Date of Notification	Notification where published	Subject of rules
1164R	10 7 1901	*Assam Gazette*, 1901, Pt II, p 366	Monthly return of wages of labourers
3002R	29 8 1901	Ditto, ditto, p 643	Form of permit to be granted to garden sardars
4190R	27 11 1901	Ditto, ditto, p 857	Routes by which labourers and dependants shall travel to labour districts.
757R	7 3 1902	*Assam Gazette*, 1902, Pt II, p 141	General rules

[1] Genl. Acts Vol. IV.
[2] Printed *ante*

APPENDIX.—*List of Notifications publishing rules made under the Assam Labour and Emigration Act, 1901 (6 of 1901), for Assam*—contd.

No. of Notification.	Date of Notification.	Notification where published.	Subject of rules.
			Amendments in the General rules of 7-3-1902 :—
1093R	3-4-1902 .	Assam Gazette, 1902, Pt. II, p. 280	*new rule* 53A; amendment of Forms 46, 47 and Sch. C;
3591R	5-9-1902 .	Ditto, ditto, p. 607	amendment of rules 123, 139, 142 and of Form 47; *Amendment of rule 138*;
3764R	17-9-1902 .	*Ditto, ditto, p.* 623	*Amendment of rule* 98 (*a*);
1687R	23-4-1903 .	*Assam Gazette*, 1903, *Pt. II, p.* 227	*new Form* 27;
2563R	18-6-1903 .	Assam Gazette, 1903, Pt. II, p. 351	cancellation of rule 53A;
3492R	27-8-1903 .	Ditto, ditto, p. 498	addition of proviso to rule 139;
1453R	25-3-1904 .	Assam Gazette, 1904, Pt. II, p. 183	new rule 11;
1518R	31-3-1904 .	Ditto, ditto, p. 206 .	new rule 118;
1744R	18-4-1904 .	Ditto, ditto, p. 261 .	new Form 26;
1849R	29-4-1904 .	Ditto, ditto, p. 276 .	new rule 98;
3214R	8-7-1904 .	Ditto, ditto, p. 435 .	amendment of rules 80, 86, 87; cancellation of Form 8; amendment of Form 29;
3392R	21-7-1904 .	Ditto, ditto, p. 484 .	amendment of rule 76;
5745R	13-12-1904	Ditto, ditto, p. 907 .	
1553R	17-4-1905 .	Assam Gazette, 1905, Pt. II, p. 338	new rules 4, 53, 71; amendment of rule 29 and Schs. A and B;
4851R	1-9-1905 .	Assam Gazette, 1905, Pt. II, p. 800	new rule 122; new Form 27; amendment of Forms 46, 47;
664F	1-2-1906 .	E. B. and A. Gazette, 1906, Pt. II, p. 109.	new rule 41;
9159F	30-8-1906 .	Ditto, ditto, p. 871	new rule 138.

Note.—References to amendments which have been superseded by later amendments are printed in italics.

ACT I OF 1903.

(THE AMENDING ACT, 1903).[1]

[*6th March, 1903.*]

An Act to facilitate the citation of certain enactments, [and][2] to amend certain enactments [3]* * * * * .

WHEREAS it is expedient to facilitate the citation of the enactments specified in the First Schedule to this Act;

And whereas it is also expedient that certain formal amendments should be made in the enactments specified in the Second Schedule to this Act;

[3]* * * * * * * * * * * *

It is hereby enacted as follows:—

Short title. 1. This Act may be called the * * [4] Amending Act, 1903.

Citation of certain enactments. 2. Each of the enactments described in the first three columns of the First Schedule may, without prejudice to any other mode of citation, be cited for all purposes by the short title mentioned in that behalf in the fourth column thereof.

Amendment of certain enactments. 3. The enactments specified in the Second Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

4. [*Repeal of certain enactments Rep by Act X of 1914, Sec Sch*]

5. [*Savings Rep. ibid*]

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[1] LEGISLATIVE PAPERS —For Statement of Objects and Reasons, *see* Gazette of India, 1903, Pt. V, p. 73; and for Proceedings in Council, *see ibid*, Pt VI, p 7.

[2] The word "and" in square brackets was inserted by the Repealing and Amending Act, 1914 (X of 1914)

[3] Portions of the title and preamble repealed by Act X of 1914 are omitted

[4] The words "Repealing and" were repealed by Act X of 1914

THE FIRST SCHEDULE.

(See section 2.)

1	2	3	4
Year.	No.	Title or subject.	Short title.

Part I.—Regulations of the Bengal Code.

[Omitted, none of the Regulations being applicable to Assam.]

Part II.—Acts of the Governor General in Council.

[Omitted, none of the Acts being applicable to Assam.]

Part III.—Bengal Acts.

Year.	No.	Title or subject.	Short title.
1862	3	*[Omitted, the Acts being inapplicable to Assam.]*	
"	6		
"	7		
* *	* * [1]		
1863	2		
1864	4		
1865	4[2]	An Act for the prohibition of the practice of inoculation in the Town and Suburbs of Calcutta and in towns to which Act 3 of 1864, passed by the Lieutenant-Governor of Bengal in Council, has been or shall hereafter be extended.	The Bengal Prevention of Inoculation Act, 1865.
"	7	*[Omitted, the Act being inapplicable to Assam.]*	
"	8[2]	An Act to amend the law for the sale of such under-tenures as by the title-deeds or established usage of the country are transferable by sale or otherwise for the recovery of arrears of rent due in respect thereof.	The Bengal Rent Recovery (Under-tenures) Act, 1865.
1866	2	*[Omitted, the Act being inapplicable to Assam.]*	
"	3	An Act to provide for the attendance and examination of witnesses before the Council of the Lieutenant-Governor of Bengal for making Laws and Regulations.	The Bengal Legislative Council (Witnesses) Act, 1866.

[1] The entry relating to Ben. Act VIII of 1862 is omitted as having been repealed by the Repealing and Amending Act, 1914 (X of 1914).
[2] Printed *post.*

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	*Title or subject*	*Short title.*
		Part III.—Bengal Acts—contd.	
1866	7	[*Omitted, the Acts being inapplicable to Assam.*]	
1867	[illegible]		
„	[illegible]		
„	4		
1868	3		
„	4		
„	7		
1869	1[1]	An Act for the Prevention of Cruelty to Animals	The Bengal Cruelty to Animals Act, 1869
„	3[1]	An Act to enable Police officers to arrest without warrant persons guilty of cruelty to animals.	The Bengal Cruelty to Animals (Arrest) Act, 1869
„	7[1]	An Act to amend the constitution of the Police force in Bengal.	The Bengal Police Act, 1869
1871	1[1]	An Act to amend the Village chaukidari Act, 1870	The Bengal Village chaukidari Act, 1871
„	2	[*Omitted, the Acts being inapplicable to Assam.*]	
1873	1[1]		
„	4[1]	An Act for registering Births and Deaths.	The Bengal Births and Deaths Registration Act, 1873.
1876	1[1]	An Act to provide for the voluntary registration of Muhammadan Marriages and Divorces	The Bengal Muhammadan Marriages and Divorces Registration Act, 1876
„	2	[*Omitted, the Acts being inapplicable to Assam.*]	
1878	5		
1879	2		
„	3		
„	8		
1880	3		
1881	2		

[1] Printed *post*.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Title or subject.	Short title.
1881	3[1]	An Act to amend the Court of Wards Act, 1879.	The Bengal Court of Wards (Amendment) Act, 1881.
1883	1	[*Omitted, the Acts being inapplicable to Assam.*]	
"	5		
1884	1		
"	2		
1886	1[1]	An Act to further amend the Village-chaukidari Act, 1870.	The Bengal Village-chaukidari (Amendment) Act, 1886.
"	2	[*Omitted, the Act being inapplicable to Assam.*]	
"	3[1]	An Act to amend Act 3 (B. C.) of 1884.	The Bengal Municipal (Amendment) Act, 1886.
1887	2[1]	An Act to amend Bengal Act 5 of 1880.	The Bengal Vaccination (Amendment) Act, 1887.
1889	4	[*Omitted, the Acts being inapplicable to Assam.*]	
1890	1		
"	2		
1892	1[1]	An Act to further amend the Village-chaukidari Act, 1870.	The Bengal Village-chaukidari (Amendment) Act, 1892.
1894	2	[*Omitted, the Act being inapplicable to Assam.*]	
"	4[1]	An Act to amend the Bengal Municipal Act, 1884.	The Bengal Municipal (Amendment) Act, 1894.
1895	2	[*Omitted, the Acts being inapplicable to Assam.*]	
"	4		
"	6		
1896	2[1]	An Act to further amend the Bengal Municipal Act, 1884.	The Bengal Municipal (Amendment) Act, 1896.
1897	1	[*Omitted, the Acts being inapplicable to Assam.*]	
1899	2		

[1] Printed *post.*

THE SECOND SCHEDULE

AMENDMENTS

(See section 3)

1	2	3	4
Year.	No	Subject or short title	Amendments
		Part I —Regulations of the Bengal Code	
1793	2[1]	The Bengal Land Revenue Regulation, 1793	In section 18 *after* Collector *insert* or In sections 36, 38, 39, 40, 42, 43 and 45, *the words* Governor General in Council, *wherever they occur, shall be read as if the words* Local Government *were substituted therefor* In section 40, *the word* his *shall be read as if the word* its *were substituted therefor* In section 45, *the word* him *shall be read as if the word* it *were substituted therefor*
"	8[1]	The Bengal Decennial Settlement Regulation, 1793	In section 20 *the words* Governor General in Council *shall be read as if the words* Local Government *were substituted therefor* In section 21, *the word* Government *shall be read as if the words* the Local Government *were substituted therefor*
"	19	*[Omitted, the Regulations being inapplicable to Assam]*	
"	37		
1799	5[1]	The Bengal Wills and Intestacy Regulation, 1799	In section 7, *the words* Governor General in Council *shall be read as if the words* Local Government *were substituted therefor, and the word* his, *where it last occurs, shall be read as if the word* its *were substituted therefor*
1805	12	*[Omitted, the Regulations being inapplicable to Assam]*	
"	13		
1810	19		
1812	5		

[1] Prin ci... a nie

THE SECOND SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject or short title.	Amendments.
		Part I.—Regulations of the Bengal Code—concld.	
1812	11[1]	The Bengal Foreign Immigrants Regulation, 1812.	At the end of section 5, *for* the said Regulation *substitute* this Regulation.
1814	20	[*Omitted, the Regulations being inapplicable to Assam.*]	
1816	5		
"	9		
1817	12		
1819	1		
"	2		
"	8[1]	The Bengal Patni Taluks Regulation, 1819.	In section 9, and in section 14, clause *Second*, *for* notes of the Bank of Bengal *substitute* currency notes.
1820	1[1]	The Bengal Patni Taluks Regulation, 1820.	In section 2, *for* the general Regulations *substitute* law.
1821	4	[*Omitted, the Regulation being inapplicable to Assam.*]	
1827	3[1]	The Bengal Corruption and Extortion Regulation, 1827.	In section 5, *for* a Court of Circuit or the Nizamat Adalat *substitute* the Court.
"	5[1]	The Bengal Attached Estates Management Regulation, 1827.	In section 3, *for* several Regulations *substitute* Regulation.
1828	3	[*Omitted, the Regulations being inapplicable to Assam*]	
"	4		
1833	9		
		Part II.—Acts of the Governor General in Council.	
1836	21	[*Omitted, the Acts being inapplicable to Assam.*]	
1859	10		
"	11		
"	12		
1861	5[2]	The Police Act, 1861 . . .	In section 34, *after* imprisonment *insert* with or without hard labour.

[1] Printed *ante.*
[2] Genl. Acts, Vol. I.

THE SECOND SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject or short title	Amendments

Part II.—Acts of the Governor General in Council—contd.

1867	3[1]	The Public Gambling Act, 1867	[*In the title*, for *the Central Provinces and British Burma* substitute *and the Central Provinces*. *In the preamble*, for *of the Chief Commissioner of the Central Provinces and of the Chief Commissioner of British Burma*, substitute *and of the Chief Commissioner of the Central Provinces* *In section* 1, for the definitions of *Lieutenant Governor* and *Chief Commissioner* substitute the following, namely — "*Lieutenant Governor*" *means the Lieutenant Governor of the United Provinces of Agra and Oudh or of the Punjab, as the case may be* "*Chief Commissioner*" *means the Chief Commissioner of the Central Provinces or of the North-West Frontier Province, as the case may be.*]
1872	15[2]	The Indian Christian Marriage Act, 1872.	In section 82, *for* certificates of Marriages, *and also for* marriage certificates *substitute* certificates for Marriage In Schedule II, *after* declaration *insert* or oath
*[3]	*	*	* *
1879	14[1]	The Hackney-carriage Act, 1879	[*In section* 3, for *The Lieutenant-Governors of the North Western Provinces and the Punjab and the Chief Commissioners of Oudh, the Central Provinces, British Burma*, substitute *The Lieutenant Governors of the United Provinces of Agra and Oudh, the Punjab and Burma, and the Chief Commissioner of the Central Provinces*]

[1] Printed *ante*.
[2] Genl. Acts, Vol. II.
[3] The entry relating to Act 12 of 1878 (Laws, Punjab), is omitted, as having been repealed by the Punjab Pre emption Act, 1905 (Punjab Act 2 of 1905).

THE SECOND SCHEDULE—*contd.*

1 Year	2 No.	3 Subject or short title.	4 Amendments.
		Part II.—Acts of the Governor General in Council—contd.	
1879	18[1]	The Legal Practitioners' Act, 1879 .	[*In section* 42 (*added by the Legal Practitioners' Act*, 1884, *section* 9), before the words and figures *Act I of 1846* insert *So much of Chapter VI of Bombay Regulation*, 2 of 1827, *as has not been repealed.*]
1881	13	[*Omitted, the Acts being inapplicable to Assam.*]	
1889	5		
[2]*		* * *	* *
1897	10[3]	The General Clauses Act, 1897 .	In section 3, clauses (5), (6), (30) and (35), *after* under *insert*-the Indian Councils Act, 1861, or [*In section* 3, *after clause* 8, *insert the following* :— (8*a*) "*Burma Act*" *shall mean an Act made by the Lieutenant-Governor of Burma in Council under the Indian Councils Acts*, 1861 *and* 1892.] [*In section* 3, *after clause* (44), *insert the following* :— (44*a*) "*Punjab Act*" *shall mean an Act made by the Lieutenant-Governor of the Punjab in Council under the Indian Councils Acts*, 1861 *and* 1892. *In section* 3, *after clause* (55), *insert the following* :— (55*a*) "*United Provinces Act*" *shall mean an Act made by the Lieutenant-Governor of the North-Western Provinces and Oudh (or of the United Provinces of Agra and Oudh) in Council under the Indian Councils Act*, 1861, *or the Indian Councils Acts*, 1861 *and* 1892.] In section 20, *before the word* order, *in each of the places in which it occurs, insert* notification.

[1] Genl. Acts, Vol. III.
[2] The entry relating to Act XIII of 1889 (The Cantonments Act, 1889) is omitted, as having been repealed by the Cantonments Act, 1910 (XV of 1910).
[3] Genl. Acts, Vol. IV.

THE SECOND SCHEDULE—*contd.*

1	2	3	4
Year.	No	Subject or short title	Amendments.
		Part II —Acts of the Governor General in Council—contd	
1897	10[1]	The General Clauses Act, 1897—*contd*	In section 21, *for* make *substitute* issue notifications, *between the words* any *and* orders *insert* notifications, *and for* made *substitute* issued. In section 24 *before the word* order, *in each of the places in which it occurs, insert* appointment, notification, *and before the word* issued, *in each of the places in which it occurs, insert* made or
1898	5[2]	The Code of Criminal Procedure, 1898	In section 260, sub section (*1*), clause (*i*), *after* 451 *insert* 453, 454
			In section 555 *for* 553 *substitute* 554
			In the second schedule, column 5, against section 195 *for* Bailable *substitute* Not bailable
			In the second schedule, column 8, against section 506 *for* Ditto *substitute* Presidency Magistrate or Magistrate of the first or second class
			In the heading of the fifth schedule, *for* 554 *substitute* 555
			In the fifth schedule, Form IV, *for* within days from this date *substitute* on the day of
			In the fifth schedule, Forms XIII and XIV, *for the passage from* comply *where it occurs for the second time to* released, *substitute* be lawfully ordered to be released
1900	3[2]	The Prisoners Act, 1900	For section 29 *substitute the following* — Removal of prisoners. 29 (*1*) The Governor General in Council may, by general or special order, provide for the removal of any prisoner confined in a prison— (*a*) under sentence of death, or

[1] Genl Acts, Vol IV
[2] Genl Acts, Vol V

THE SECOND SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject or short title.	Amendments.
Part II.—Acts of the Governor General in Council—concld.			
1900	3[1]	The Prisoners Act, 1900—*contd.*	(*b*) under, or in lieu of, a sentence of imprisonment or transportation, or (*c*) in default of payment of a fine, or (*d*) in default of giving security for keeping the peace or for maintaining good behaviour, to any other prison in British India. (2) The Local Government and (subject to its orders and under its control) the Inspector-General of Prisons may, in like manner, provide for the removal of any prisoner confined as aforesaid in a prison in the Province to any other prison in the Province.
Part III.—Bengal Acts.			
1862	6	[*Omitted, the Acts being inapplicable to Assam.*]	
1865	7		
1866	4		
1867	4		
1869	1[2]	Cruelty to Animals . . .	In section 9, *for* the said Act 2 of 1866 *substitute* Bengal Act 2 of 1866.
1876	3	[*Omitted, the Acts being inapplicable to Assam.*]	
1880	9		
1884	2		
1885	3		
1887	4		
1890	2		
,,	3		

[1] Genl. Acts, Vol. V.
[2] Printed *post.*

THE SECOND SCHEDULE—concld

1 Year	2 No	3 Subject or short title	4 Amendment.
		Part III—Bengal Acts—contd	
1894	4[1]	Municipalities	In section 34, *for* Municipality *substitute* Municipalities
1899	1	[*Omitted the Act being inapplicable to Assam*.]	
		Part IV—Burma Act	
1898	1	[*Omitted the Act being inapplicable to Assam*.]	
		Part V—Regulation made under the Government of India Act, 1870 (33 & 34 Vict., c 3)	
1874	9	[*Omitted, the Regulation being inapplicable to Assam*.]	

[2] * * * * * * *

ACT No XI OF 1908

[THE ASSAM LABOUR AND EMIGRATION (AMENDMENT) ACT, 1908][3]

[*11th September, 1908*.]

An Act to amend the Assam Labour and Emigration Act, 1901.

WHEREAS it is expedient to amend the Assam Labour and Emigration Act, 1901, It is hereby enacted as follows —

1. This Act may be called the Assam Labour and Emigration (Amendment) Act, 1908 Short title

[1] Printed *post*

[2] The Third Schedule is omitted as having been repealed by Act X of 1914

[3] For Statement of Objects and Reasons *see* Gazette of India, 1908, Pt. V, p. 253, for Proceedings in Council, *see ibid*, Pt VI, pp 142, 150

Substitution of new section for section 91, Act VI, 1901.

2. For section 91 of the Assam Labour and Emigration Act, 1901, the following shall be substituted, namely :— VI of 1901.

Power to Local Government to relax certain provisions of Act.

"91. Notwithstanding anything contained in section 90, the Local Government may, by notification in the local official Gazette, declare that—

(a) in the case of contractors, sub-contractors, and recruiters holding licenses granted under Chapter III, any of the requirements of that Chapter, or,

(b) in the case of garden-sardars holding certificates granted under Chapter IV or holding permits granted and countersigned under section 90, any of the requirements of that Chapter or of that section, as the case may be,

may be dispensed with or relaxed on such conditions as may be prescribed in the notification."

Substitution of new section for section 218, Act VI of 1901.

3. For section 218 of the said Act the following shall be substituted, namely :—

Application of proceeds of fines, fees and rates.

"218. The proceeds of any fines, fees and rates under this Act which may be credited to Government shall be expended, in such manner as the Governor General in Council may direct, on paying the salaries and allowances of officers appointed under this Act and their pensionary and leave allowances on meeting the cost of sending labourers and other persons back to their native districts, and generally on defraying the expenses of carrying out the purposes and objects of this Act and any rules made thereunder, and not otherwise."

ACT No. XVI OF 1911.

[THE BENGAL, AGRA AND ASSAM CIVIL COURTS (AMENDMENT) ACT, 1911.][1]

[18th September, 1911.]

An Act further to amend the Bengal, North-Western Provinces and Assam Civil Courts Act, 1887.

WHEREAS it is expedient further to amend the Bengal, North-Western Provinces and Assam Civil Courts Act, 1887 ; It is hereby enacted as follows :— XII of 1887.

Short title.

1. This Act may be called the Bengal, Agra and Assam Civil Courts (Amendment) Act, 1911.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1911, Pt. V, p. 113 ; for Proceedings in Council, *see ibid*, Pt. VI, pp. 634 and 654.

2. In sub section (*1*) of section 1 of the Bengal, North-Western Provinces and Assam Civil Courts Act, 1887, for the words "North-Western Provinces" the word "Agra" shall be substituted Amendment of section (1) Act XII, 1887

3. In sub section (*1*) of section 8 of the said Act, the words "and with the previous sanction of the Governor General in Council" are hereby repealed Amendment of section 8 (*1*) Act XII, 1887

4. In section 25 of the said Act, for the words "one hundred rupees" the words "two hundred and fifty rupees" shall be substituted Amendment of section 25, Act XII, 1887

ACT No VII of 1912

(The Bengal, Bihar and Orissa and Assam Laws Act, 1912)[1]

[*26th March, 1912.*]

An Act to make certain provisions regarding the application of the law in force in the Presidency of Fort William in Bengal, the Province of Bihar and Orissa and the Province of Assam

Whereas a Governor and an Executive Council have been appointed for the Presidency of Fort William in Bengal,

And whereas, by Proclamation published under Notification No 290, dated the twenty second day of March 1912, the Governor General in Council with the sanction of His Majesty, has been pleased to declare and appoint that, on and from the first day of April 1912, the territory mentioned in Schedule A shall be and continue subject to the said Presidency of Fort William in Bengal,

And whereas, by Proclamation published under Notification No 289, dated the twenty second day of March 1912, the Governor General, with the sanction of His Majesty, has been pleased to constitute the territory mentioned in Schedule B to be, for the purposes of the Indian Councils Act, 1861, a Province to which the provisions of that Act touching the making of Laws and Regulations for the peace and good government of the Presidencies of Fort St George and Bombay shall be applicable, and to direct that the said Province shall be called the Province of Bihar and Orissa, and further to appoint a Lieutenant-Governor of that Province,

And whereas, by Proclamation published under Notification No 291, dated the twenty second day of March 1912, the Governor General in Council, with the sanction and approbation of the Secretary of State for India, has been pleased to take under his immediate authority and management the territory mentioned in Schedule C, which was formerly included within the Province of Eastern Bengal and Assam, and to form the same into a Chief Com-

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[1] For the Proceedings in Council see Gazette of India, 1912 Pt. VI, p. 594

missionership, to be called the Chief Commissionership of Assam, and further to appoint a Chief Commissioner therefor;

And whereas it is expedient to make certain provisions regarding the application of the law in force in the territories affected by the said Proclamations;

It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Bengal, Bihar and Orissa and Assam Laws Act, 1912; and

(*2*) It shall come into force on the first day of April, 1912.

Saving of territorial application of enactments.

2. The Proclamations referred to in the preamble shall not be deemed to have effected any change in the territorial application of any enactment, notwithstanding that such enactment may be expressed to apply or extend to the territories for the time being under a particular administration.

Construction of certain references in enactments in force in territory mentioned in Schedules A, B and C.

3. All enactments made by any authority in British India, and all notifications, orders, schemes, rules, forms and by-laws issued, made or prescribed under such enactments, which, immediately before the commencement of this Act, were in force in, or prescribed for, any of the territory mentioned in Schedule A, Schedule B or Schedule C, shall, in their application to that territory, be construed as if references therein to the authorities, territory or Gazettes mentioned in column 1 of Schedule D were references to the authorities, territory or Gazettes respectively mentioned or referred to opposite thereto in column 2 of that Schedule:

Provided that the Governor General in Council may, by notification in the Gazette of India, direct that any function of the Chief Commissioner of Assam under any such enactment, notification, order, scheme, rule, form or by-law shall be discharged by the Governor General in Council and not by the said Chief Commissioner.

4. [*Constitution of Board of Revenue for Bihar and Orissa.*] *Rep. by Bihar and Orissa Act I of 1913.*

Powers to Courts and Local Governments for facilitating application of enactments.

5. For the purpose of facilitating the application to the territory, or any part thereof, mentioned in Schedule A, Schedule B or Schedule C of any enactment passed before the commencement of this Act, or of any notification, order, scheme, rule, form or by-law made under any such enactment,—

(*a*) any Court may, subject to the other provisions of this Act, construe the enactment, notification, order, scheme, rule, form or by-law with such alterations, not affecting the substance, as may be necessary or proper to adapt it to the matter before the Court; and

(*b*) the Local Government may, by notification in the local official Gazette, direct by what officer any authority or power shall be exerciseable; and any such notification shall have effect as if enacted in this Act.

6. Nothing in this Act shall affect any proceeding which, at the commencement thereof is pending in or in respect of any of the territory mentioned in Schedule A, Schedule B or Schedule C, and every such proceeding shall be continued as if this Act had not been passed. Pending proceedings.

7. The enactments specified in Schedule E are hereby amended to the extent and in the manner specified in the fourth column thereof. Amendments of Acts

8. The Bengal and Assam Laws Act, 1905, is hereby repealed. Repeal

SCHEDULE A.

(See sections 3, 5 and 6.)

THE PRESIDENCY OF FORT WILLIAM IN BENGAL

Part I

The Chittagong Division, comprising the districts of Chittagong, the Chittagong Hill-tracts, Noakhali and Tippera;

the Dacca Division, comprising the districts of Bakarganj, Dacca, Faridpur and Mymensingh;

the Rajshahi Division, comprising the districts of Bogra, Dinajpur, Jalpaiguri, Malda, Pabna, Rajshahi and Rangpur.

Part II

The Burdwan Division, comprising the districts of Bankura, Birbhum, Burdwan, Hooghly, Howrah and Midnapur;

the Presidency Division, comprising the town of Calcutta and the districts of Jessore, Khulna, Murshidabad, Nadia and the 24 Parganas; and

the district of Darjeeling.

SCHEDULE B.

THE PROVINCE OF BIHAR AND ORISSA

The districts of Bhagalpur, Monghyr, Purnea and the Santhal Parganas, in the Bhagalpur Division;

the Patna Division, comprising the districts of Gaya, Patna and Shahabad;

the Tirhut Division, comprising the districts of Champaran, Darbhanga, Muzaffarpur and Saran;

the Chota Nagpur Division, comprising the districts of Hazaribagh, Manbhum, Palamau, Ranchi and Singhbhum; and

the Orissa Division, comprising the districts of Angul, Balasore, Cuttack, Puri and Sambalpur.

SCHEDULE C.

THE PROVINCE OF ASSAM

The Assam Valley Districts Division, comprising the districts of Darrang, Garo Hills, Goalpara, Kamrup, Lakhimpur, Nowgong and Sibsagar; and

the Surma Valley and Hill Districts Division, comprising the districts of Cachar, Khasi and Jaintia Hills, Lushai Hills, Naga Hills and Sylhet.

SCHEDULE D.

(*See section 3.*)

Part I.—Construction of enactments, etc., in force in the territory mentioned in Schedule A (the Presidency of Fort William in Bengal).

1	2
References.	Constructions.
1. The Local Government of Bengal . . 2. The Local Government of Eastern Bengal and Assam.	The Governor in Council of Fort William in Bengal.
3. The Board of Revenue for Eastern Bengal and Assam. 4. The Chief Controlling Revenue-Authority . 5. The Chief Revenue-Authority . . .	The Board of Revenue for Bengal.
6. All officers and official bodies not mentioned in the foregoing clauses 2 to 5 (except the Treasurer of Charitable Endowments) whose authority extended, immediately before the commencement of this Act, over the Province of Eastern Bengal and Assam generally, inclusive of the territory mentioned in Part I of Schedule A.	(*a*) The respective officers and official bodies who immediately before the commencement of this Act exercised similar functions in the Province of Bengal; or (*b*) Such other officers or official bodies, respectively, as the Governor in Council of Fort William in Bengal may, by notification in the local official Gazette, direct.
7. The local official Gazette (English or Vernacular, as the case may be) of the Government of Eastern Bengal and Assam.	The local official Gazette (English or Vernacular, as the case may be) of the Government of Bengal.

Part II.—Construction of enactments, etc., in force in the territory mentioned in Schedule B (the Province of Bihar and Orissa).

8. The Local Government of Bengal . . 9. The Local Government of the Central Provinces.	The Local Government of Bihar and Orissa.
10. The Board of Revenue for Bengal . . 11. The Chief Controlling Revenue-Authority . 12. The Chief Revenue-Authority . . . 13. The Court of Wards of the Central Provinces 14. The Superintendent of Government Wards in the Central Provinces.	The Board of Revenue for Bihar and Orissa.

SCHEDULE D—*contd*

Part II—Construction of enactments, etc, in force in the territory mentioned in Schedule B (the Province of Bihar and Orissa)—contd

1	2
References.	Constructions.
15 The Judicial Commissioner of the Central Provinces	The High Court of Judicature at Fort William in Bengal
16 All officers and official bodies not mentioned in the foregoing clauses 8 to 15 (except the Treasurer of Charitable Endowments) whose authority extended immediately before the	Such officers or official bodies respectively, as the Local Government may, by notification in the local official Gazette direct
17 The local official Gazette (English or Vernacular as the case may be) of the Government of Bengal or the Chief Commissionership of the Central Provinces	The local official Gazette (English or Vernacular, as the case may be) of the Government of Bihar and Orissa

Part III—Construction of enactments, etc, in force in the territory mentioned in Schedule C (the Province of Assam)

18 The Local Government of Bengal	The Chief Commissioner of Assam
19 The Local Government of Eastern Bengal and Assam	
20 The Board of Revenue for Bengal	
21 The Board of Revenue for Eastern Bengal and Assam	
22 The Chief Controlling Revenue Authority	
23 The Chief Revenue Authority	
24 All officers and official bodies not mentioned in the foregoing clauses 18 to 23 (except the Treasurer of Charitable Endowments) whose authority extended immediately before the commencement of this Act over the Province of Eastern Bengal and Assam generally, inclusive of the territory mentioned in Schedule C	Such officers or official bodies respectively, as the Chief Commissioner of Assam may by notification in the local official Gazette, direct.[1]
25 The Chief Commissionership of Assam	The territory mentioned in Schedule C
26 The local official Gazette (English or Vernacular, as the case may be) of the Government of Bengal or the Government of Eastern Bengal and Assam	The local official Gazette (English or Vernacular, as the case may be) of the Chief Commissionership of Assam

[1] See Notification 8, dated 1st April 1912, Assam Gazette, 1912, Pt. I, p 3

SCHEDULE E.

(*See section 7.*)

1	2	3	4
Year.	No.	Short title.	Amendments.
1877	I	The Specific Relief Act, 1877.	In section 45 (*f*), for the words "the Lieutenant-Governor of Bengal" substitute the words "the Governor in Council of Fort William in Bengal."
1882	XV	The Presidency Small Cause Courts Act, 1882.	In section 93, for the words "and Bombay" substitute the words "Bombay and Fort William in Bengal," and omit the words "the Lieutenant-Governor of Bengal."
1903	X	The Victoria Memorial Act, 1903.	In section 2 (*1*) (*b*), for the words "the Lieutenant-Governor of Bengal" substitute the words "the Governor of Fort William in Bengal."
1910	X	The Indian Museum Act, 1910.	In section 2 (*1*) (*c*), for the words "the Lieutenant-Governor of Bengal" substitute the words "the Governor of Fort William in Bengal."

PART III.—REGULATIONS MADE UNDER THE GOVERNMENT OF INDIA ACT, 1870 (33 & 34 VICT., C. 3), IN FORCE IN THE PROVINCE OF ASSAM.

REGULATION 5 OF 1873.

(BENGAL EASTERN FRONTIER REGULATION, 1873.)[1]

[*27th August, 1873*.]

A Regulation for the peace and government of certain Districts on the Eastern Frontier of Bengal

WHEREAS the Secretary of State for India in Council has, by Resolution in Council, declared the provisions of Act 33 Vict., cap. 3,[2] section 1, to be applicable to the districts of Kámrúp, Darrang, Nowgong, Sibságar, Lakhimpur, [*Garo Hills*,][3] Khási and Jaintia Hills, Nága Hills, Cachar * * *[4]; Preamble.

And whereas the Lieutenant-Governor of Bengal has proposed to the Governor General in Council a draft of the following Regulation, together with the reasons for proposing the same, for the peace and government of the said districts;

And whereas the Governor General in Council has taken such draft and reasons into consideration, and has approved of such draft, and the same has received the Governor General's assent;

The following Regulation is now published in the Gazette of India, and will be published in the Calcutta Gazette, and will thereupon have the force of law, under the 33rd of Victoria, chapter 3[2]:—

1. This Regulation shall extend to the districts named in the preamble, and shall come into force on the 1st of November, 1873. Local extent.

No. 13, dated 11th October,

districts of Cachar, Darrang, ..., Nowgong and Sibságar—

It has been extended, by notification under the Scheduled Districts Act, 1874 (XIV of 1874), section 5, to the following Scheduled Districts, namely:—

the Eastern Duárs in the Goálpára District—see Vol. II, Appendix I, Table B, and the Mokokchang Sub-division of the Nága Hills District—see ib.

[2] The Government of India Act, 1870. It is printed in the Collection of Statutes relating

Repealing

Amending Act, 1903 (I of 1903), are omitted.

Power to prescribe and alter inner line.

2. It shall be lawful for the Local Government of Bengal,[1] with the previous sanction of the Governor General in Council, to prescribe, and from time to time to alter, by notification in the Calcutta Gazette,[2] a line, to be called "The Inner Line," in each or any of the above-named districts.

The Local Government[1] may, by notification in the Calcutta Gazette,[2] prohibit all British subjects, or any class of British subjects, or any persons residing in or passing through such districts from going beyond such line without a pass under the hand and seal of the chief executive officer of such district or of such other officer as he may authorize to grant such pass; and the Local Government[1] may from time to time cancel or vary such prohibition.[3]

Penalty for crossing line without pass.

3. Any British subject or other person so prohibited, who, after "the Inner Line" has been prescribed and notified in accordance with section 2 of this Regulation, goes beyond such line without a pass, shall be liable, on conviction before a Magistrate, to a fine not exceeding Rupees 100 for the first offence, and to a fine not exceeding Rupees 500, or to simple or rigorous imprisonment for a term not exceeding three months, or to both, for each subsequent offence.

Power to prescribe form of pass.

4. The Local Government[1] may from time to time prescribe, by notification in the Calcutta Gazette,[2] a form of pass[4] for each district, and may in such form fix such restrictions or conditions as the Local Government[1] may deem fit, and may require the payment of such dues and fees for such passes as to the Local Government [1] may seem proper.

Any holder of such a pass shall, on breach of any restriction or condition be liable, on conviction, to a fine not exceeding Rupees 100 for a first offence, and to a fine not exceeding Rupees 500, or to simple or rigorous imprisonment, which may extend to three months, or to both, for each subsequent offence.

Confiscation of jungle-product found with offender.

5. Any rubber, wax, ivory or other jungle-product found in the possession of any person convicted of an offence under this Regulation may be confiscated to Government by an order to be passed at the time of conviction by the Magistrate.

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[1] Now the Chief Commissioner of Assam—*see* the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (VII of 1912), s. 3, and Sch. D, Pt. III, *ante*.

[2] Now the Assam Gazette—*see* the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (VII of 1912), s. 3, and Sch. D. Pt. III, *ante*.

[3] For notifications prescribing and altering Inner Lines, and prohibiting persons from going beyond such Lines without a pass, *see* the Assam Local Statutory Rules and Orders, 1893, pp. 395 to 398, and Correction Slips Nos. 71, 141, 259, 290, 319, 349; *ibid*, Supplement, 1901, p. 181; and Notifications No. 6040 J., dated 7th June, 1906, in E. B. and A. Gazette, 1906, Pt. II, p. 513, and Nos. 67 P. and 76 P., dated 1st February, 1910, in *ibid*, 1910, Pt. II, pp. 247, 248.

[4] For notifications prescribing forms of pass, *see* the Assam Local Statutory Rules and Orders, 1893, pp. 398 to 400; also Notification Nos. 6039 J. and 6041 J., dated 7th June, 1906, in E. B. and A. Gazette, 1906, Pt. II, p. 513.

6. The chief executive officer of any district comprised in any notification as aforesaid may, subject to the approval of the Local Government,[1] authorize, by a written instrument under his hand, any public servant to arrest and bring before him with the least practicable delay— Power to authorize arrest

firstly, any person prohibited from crossing "the Inner Line" prescribed for such district, if such person shall be found beyond the line and when asked to produce his pass shall refuse or be unable so to do

secondly, any person to whom a pass may have been granted, and who has committed any infraction of its conditions

7. It shall not be lawful for any British subject or other person, not being a Native of the districts comprised in the preamble of this Regulation, to acquire any interest in land or the product of land beyond the said "Inner Line" without the sanction of the Local Government or such officer as the Local Government shall appoint in this behalf. Acquisition of interest in land by other than Natives of districts comprised in preamble.

Any interest so acquired may be dealt with as the Local Government or its said officer shall direct

The Local Government may also, by notification in the Calcutta Gazette,[2] extend the prohibition contained in this section to any class of persons, Natives of the said districts, and may from time to time in like manner cancel or vary such extension

8 to 10. [*Killing or capturing elephants*] *Rep by Reg 1 of 1880*

11. Offences against this Regulation may be tried by Magistrates of the first or second class, and shall be bailable. Jurisdiction as to offences.

REGULATION 3 OF 1879.

(THE ASSAM LOCAL RATES REGULATION, 1879)

CONTENTS.

PREAMBLE

SECTIONS

[1] Now the Chief Commissioner of Assam—see the Bengal, Bihar and Orissa and Assam Laws Act 1912 (VII of 1912) s. 3, and Sch D Pt III ante

[2] Now the Assam Gazette—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (VII of 1912), s 3, and Sch D, Pt III, ante

SECTIONS.

REGULATION 3 OF 1879.

(THE ASSAM LOCAL RATES REGULATION, 1879.)[1]

[20th December, 1879.]

Preamble.

WHEREAS it is expedient to provide in the territories under the administration of the Chief Commissioner of Assam for the levy on land of rates to be applied to defray the expenditure incurred and to be incurred for the relief and prevention of famine and to local purposes; It is hereby enacted as follows:—

Short title.

1. This Regulation may be called the Assam Local Rates Regulation, 1879.

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[1] LOCAL EXTENT.—This Regulation extends to Assam, but comes into force only in districts or parts of districts notified under s. 1.

It has been so brought into force in—

the districts of Cachar, Darrang, Goálpára Kámrúp Lakhimpur, Nowgong, Sibságar and Sylhet—*see* Notfn. No. 295-G., dated 8th December, 1879, in Assam Gazette, 1879, Pt. I, p. 708, and

the tract transferred from the Mokokchang sub-division of the Nága Hills District to the Sibságar District, as defined in the Notfn. No. 1436-P., dated 11th April, 1901—*see* Notfn. No. 1875-J., dated 7th May, 1901, in Assam Gazette, 1901, Pt. II, p. 369.

It extends only to the territories administered by the Chief Commissioner of Assam, Local extent

and it shall come into force in such districts, or such parts thereof, and on such dates, as the Chief Commissioner may, by notification in the Assam Gazette, from time to time direct Commencement

2. In this Regulation,— Interpretation clause.

(*1*) "land" means land, whether covered with water or not, which is, or in the absence of some express exemption would be, assessable to land-revenue,

(*2*) "landholder," in the case of land assessed to land-revenue, means any person responsible for the payment of the revenue assessed on such land, and, in the case of land not so assessed, any person who, if such land were assessed to land-revenue, would be responsible for the payment of the revenue assessed thereon,

(*3*) "tenant" means any person holding land from a landholder and liable to pay or deliver rent therefor,

(*4*) "the permanently settled portion of Sylhet" means the whole of that district except the Jaintia parganas, and "the permanently-settled portion of Goalpara" means the whole of that district except the Bhutan Duárs,

(*5*) "annual value," used in respect of any land, means the following (that is to say) —

(*a*) where such land is liable to be periodically re-settled at full rates,—the land revenue for the time being assessed on such land,

(*b*) where such land is situate in any place other than the permanently-settled portions of Sylhet and Goalpara, and the land revenue of such land has been wholly or in part released compounded for, redeemed or assigned —twice the land revenue which at the current rates of the district for temporarily-settled estates would be assessable on the cultivated portion of such land, less by any reduced revenue payable thereon,

(*c*) where such land has been permanently settled and is assessed to land revenue,—two rupees for each acre of such land,

(*d*) where such land is situate in the permanently-settled portions of Sylhet and Goalpara and the land revenue on such land has been permanently released, compounded for, redeemed or assigned,—two rupees for each acre of such land, together with a sum for each such acre equal to the average rate of incidence per acre of the land, revenue assessed on the recorded area of the permanently-settled land within the same pargana

Provided that when any land to be valued under sub clause (*c*) or sub-clause (*d*) exceeds four hundred acres in area or is assessed to land-revenue at

not less than one hundred rupees, and any portion of such land has not been cultivated for three years, the annual value of such portion shall not be deemed to exceed the annual profits derived by the land-holder from the same:

Provided also that when any land has been acquired under a grant or lease made in accordance with any rules issued by, or under the authority of, Government for the grant or lease of waste-lands for the cultivation of tea, coffee or cinchona, the annual value shall be ascertained in the following way (that is to say):—

if the grant or lease has been made under the rules for the lease of waste lands in force at the date of the passing of this Regulation, the revenue payable under the conditions of the grant or lease shall be deemed to be the annual value of such land;

if the grant or lease has been made under any other rules previously in force for the grant or lease of waste-lands, it shall be ascertained what would have been the revenue payable at the time of assessment if at the date of making the grant or lease the rules now in force for the grant or lease of waste-lands had been in force, and such revenue shall be deemed to be the annual value of such land;

or, in either of the above cases, if the land-holder prefers it, the land actually under cultivation within the boundaries of the area granted or leased during the year previous to the assessment of rates under this Regulation shall be assessed as if it were land paying full rates of land-revenue, and such assessment shall be deemed to be the annual value for the purposes of this Regulation.

This proviso shall not apply to land sold under any rules issued by, or with the authority of, Government for the sale of waste-lands revenue-free, or to any lands leased under any rules for the lease of waste-lands of which the revenue payable under the lease has been subsequently commuted, redeemed or compounded for.

Rates assessable.

3. All land shall be liable to the payment of such rate, in addition to the land-revenue and local cesses (if any) assessed thereon, as the Chief Commissioner from time to time directs, not exceeding one anna four pies for every rupee of the annual value of such land.

Effect of imposition of land-rate on cess now leviable.

4. When a rate is imposed on any land under this Regulation, any cess now leviable on such land for any of the purposes mentioned in section 12 shall cease to be levied on such land; or, if such cess be maintained, a corresponding diminution shall be made in such rate.

Recovery of rate.

5. All sums due on account of a rate imposed on any land under this Regulation shall be payable by the land-holder, and shall be recoverable as if they were arrears of land-revenue due on such land.

When such land is held by two or more land-holders, such land-holders shall be jointly and severally liable for such sums.

* * * * * * [1]

6. The Chief Commissioner may, from time to time, by notification in the Assam Gazette— *Powers of Government Local.*

(*a*) appoint officers to assess and collect any rate under this Regulation, and make rules for the guidance of such officers in assessing or collecting such rate,

(*b*) prescribe by what instalments and at what times such rate shall be payable, and

(*c*) exempt any land from liability to pay the whole or any part of such rate

7. All land-holders shall, on the requisition of any officer appointed under the preceding section to assess and *Land holders*

they may be called upon by him to s

land held by them, the extent of such land under cultivation and the crops grown, and all other information necessary to enable him to determine the annual value of such land as defined in section 2

In case of default or refusal to supply such information when required, or if the officer appointed as aforesaid has reason to doubt the correctness of the information supplied, such officer may, personally or by means of his subordinates, carry out any inquiry on the land which may be necessary, and make any surveys which he may deem essential to the obtaining of such information, and the cost of such inquiry and surveys shall be borne by the land-holder in all cases of default or refusal, and, when such inquiry is undertaken in consequence of doubt as to the correctness of the information referred, if the inquiry and survey made show the information supplied to have been incorrect

8. An appeal from the order of any officer appointed under section 6 to assess or collect a rate shall lie to the Chief Commissioner, or to such person as the Chief Commissioner may appoint in this behalf *Appeals*

The order passed on any such appeal by the Chief Commissioner, or the person so appointed, shall be final

9. The period of limitation for an appeal under section 8 shall be thirty days from the date of the order appealed against *Limitation of such appeals*

In computing such period, and in all respects not herein specified, the limitation of such appeals shall be governed by the Indian Limitation Act, 1877.[2]

10. When, in the course of any assessment under this Regulation, any land-holder claims to have the annual value of any land held by him limited in the manner prescribed by the first proviso to the fifth clause of section 2, the cost *Costs of assessment recoverable from land-holder in certain cases*

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[1] The Explanation to s. 5 was repealed by the Repealing and Amending Act, 1897 (V of

... Act No VII

... fined in that

Act, are recoverable, but also in any other mode in which land revenue is recoverable '

[2] Repealed and re enacted by the Indian Limitation Act, 1908 (IX of 1908), Genl Acts, Vol. VI.

of any measurement or local inquiry necessary for the determination of such claim shall be borne by such land-holder, and the amount thereof may be recovered from him as if it were an arrear of revenue due in respect of such land.

Rates to be credited to General Fund.

11. The proceeds of all rates levied under this Regulation shall be carried to the credit of a General Provincial Fund.

Appropriation for increasing revenues available for famine purposes.

12. (*a*) From such Fund the Chief Commissioner, after paying the expenses incurred in carrying out the provisions of this Regulation, shall, if the Governor General in Council so directs in any year, appropriate such amount not exceeding one-fourth of the proceeds of the rates assessed in such year under this Regulation as the Governor General in Council may direct for the purpose of increasing the revenues available for defraying expenditure incurred or to be incurred for the relief and prevention of famine in the said territories, or, if the Governor General in Council so directs, in any other part of British India.

Assignment for works of provincial utility.

(*b*) The Chief Commissioner may, from time to time, with the previous sanction of the Governor General in Council, assign from such Fund such amount as he thinks fit, to be applied in payment of charges incurred or to be incurred on account of such works and undertakings as he may declare to be works of general provincial utility :

Provided that the amount so assigned in any year shall not exceed three-eighths of the proceeds of the rates assessed in such year.

Allotment for local improvements.

(*c*) Subject to such appropriation, the Chief Commissioner shall, from time to time, allot from the said Fund such amount as he thinks fit, to be applied in each district for expenditure on all or any of the following purposes :—

(*1*) the construction, repair and maintenance of roads and other communications, and the improvement of river-channels ;

(*2*) the maintenance of the district-post ;

(*3*) the construction and repair of school-houses, the maintenance and inspection of schools, the training of teachers and the establishment of scholarships ;

(*4*) the construction and repair of hospitals, dispensaries, lunatic asylums, markets, wells, tanks, rest-houses for travellers and any other local works likely to promote the public health, comfort or convenience, and the payment of all charges connected with the purposes for which such works have been constructed :

Provided that the amounts so allotted in any year for any district shall not be less than three-eighths of the proceeds of the rate assessed in such district in such year.

Unexpended portion of allotment

13. Any portion of such allotment remaining unexpended at the end of the year in which the allotment was made may, at the discretion of the Chief Commissioner, be re-allotted for expenditure in the same district, or may be

applied for the benefit of the Province of Assam in such manner as the Chief Commissioner from time to time directs

14. The Chief Commissioner shall establish in each district a District Committee, consisting of not less than six persons, for the purpose of determining how the amount allotted for such district under section 12 shall be applied, and of supervising and controlling the expenditure of the same, and for the same purpose may, in addition to the District Committee form as many Branch Committees, consisting of not less than three persons each, as he may think fit, and shall define the portions of the district within which such Branch Committees shall exercise their functions

Local Committees

15. The Chief Commissioner, may, from time to time by notification in the Assam Gazette, make rules to define the functions authority and mode of proceeding of any Committee or Branch Committee so established and to prescribe the manner in which the members of such Committees and Branch Committees shall be appointed or removed

Power of Local Government to make rules regarding Committees

Provided that not less than one third of the members of any such Committee shall be persons residing in the district and not in the service of the Government

16. Accounts of the receipts in respect of all rates levied under this Regulation in any district, and of the allotments made to such district under section 12, shall be kept in such district in such form as the Chief Commissioner may from time to time direct

Accounts to be kept

Such accounts shall, at all reasonable times be open to the inspection of the members of the District Committee

An abstract of such accounts shall be prepared annually in English and in the vernacular language of the district and shall be open at all reasonable times, to public inspection, at suitable places within the district without the payment of any fee

The English abstract of such accounts shall also be published in the Assam Gazette

17. When a rate is levied under this Regulation from a land holder in respect of any land under sub clause (*a*), (*b*) (*c*) or (*d*) of clause (3) of section 2, and such land is held by a tenant of such land holder at a rent less than the aggregate of the annual value of such land and the revenue (if any) payable in respect of the same, such land holder may realise from such tenant a part of such rate, bearing to the whole of such rate the same ratio as the excess of such aggregate above such rent bears to the annual value

Power to recover share of rate from tenant

Illustrations

(*a*) A is the holder of land of the description mentioned in sub clause (*a*) of clause (3), of section 2, of which the land revenue is Rs 100 The annual value is therefore Rs 100, and the rate at one anna per rupee would be Rs 6 4 The land is held by a tenant, B, at a rent of Rs 150 Then 100 (200—150)=5 Rs 6-4 Rs 3 2 A may realize Rs 3 2 from B

(*b*) A is the holder of land of the description mentioned in sub-clause (*b*) of clause (5 of section 2, on which the land-revenue payable is Rs. 50, and on which the full land-revenue at current rates would be Rs. 100. The annual value is therefore Rs. 150, and the rate at one anna per rupee would be Rs. 9-6. The land is held by a tenant, B, at a rent of Rs. 150. Then 150 : (200—150) (=) 50 : : Rs. 9-6:Rs. 3-2. A may realize Rs. 3-2 from B.

(*c*) A is the holder of one hundred acres of land of the description mentioned in sub-clause (*c*) of clause (5) of section 2. The annual value of such land is therefore Rs. 200 and the rate at one anna per rupee would be Rs. 12-8. The revenue assessed on the land is Rs. 50. The land is held by a tenant, B, at a rent of Rs. 100. Then Rs. 200 : (250—100) (=)150 : : Rs. 12-8 : Rs. 9-6. A may realize Rs. 9-6 from B.

(*d*) A is the holder of one hundred acres of land of the description mentioned in sub-clause (*d*) of clause (5) of section 2. The average rate of incidence per acre of the land-revenue in other permanently-settled land in the same pergana is eight annas. The annual value of such land is therefore Rs. 250, and the rate at one anna per rupee would be Rs. 15-10. The land is held by a tenant, B, at a rent of Rs. 125. Then 250 : (250—125) (=) 125 : : Rs. 15-10 : Rs. 7-13. A may realize Rs. 7-13 from B.

Suits regarding rate cognizable by Courts having cognizance of suits for rent.

18. Suits for the recovery from co-sharers, tenants or others of any sum on account of a rate imposed on any land under this Regulation, and suits on account of illegal exaction of such rate or for the settlement of accounts of such rate, shall be cognizable by the Courts which, under the law for the time being in force, have cognizance of suits for rent due on such land, and by no other Courts.

REGULATION 2 OF 1880.

(THE ASSAM FRONTIER TRACTS REGULATION, 1880.)[1]

[*31st January, 1880.*]

Preamble.

WHEREAS it is expedient to provide for the removal of certain frontier tracts in Assam inhabited or frequented by barbarous or semi-civilised tribes from the operation of enactments in force therein ; It is hereby enacted as follows :—

Short title.

1. This Regulation may be called the Assam Frontier Tracts Regulation, 1880.

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[1] LOCAL EXTENT [illegible] WORK.—This Regulation extends to such frontier tracts in Assam as the Governor General in Council m[illegible] and th[illegible], by notification, direct (*see* s. 1), and may similarly be extended by him to the Garo Hills dis[illegible]rict, the Khási and Jaintia Hills district and any portion of the Nowgong district (*see* Reg. III o[illegible]hich such [illegible] 1884, s. 1, *post*).

The Regulation has been e[illegible]xtended by such notifications to the Dibrugarh Frontier Tract (in the Lakhimpur district), the [illegible] districts of the Garo Hills, the Khási and Jaintia Hills and the Lushai Hills (including the tract [illegible] transferred *from the Cachar* district in 1904), the Mikir Hills Tract (in the Nowgong district), t[illegible] Nága Hills district and the North Cachar Hills—*see* Vol. II, Appendix II, Table C.

The Regulation has (with the excep[illegible]tion of the second and third paragraphs of section 1, the words "in manner hereinbefore pre[illegible]scribed" in section 2, and the words "as aforesaid" in section 3) been extended to the Mo[illegible]kokochang sub-division of the Nága Hills district by notification under the Scheduled Districts Act, 1874 (XIV of 1874)—*see ib*

It extends to such frontier tracts within the territories [1][for the time being] administered by the Chief Commissioner of Assam as the Governor General in Council may, by notification in the Gazette of India, from time to time direct, *Local extent.*

and it shall come into force in each of such tracts on such day as the Governor General in Council in like manner directs in this behalf. *Commencement.*

* * * * * * [2]

2. When this Regulation has been extended in manner hereinbefore prescribed to any tract, the Chief Commissioner may from time to time, with the previous sanction of the Governor General in Council, by notification in the local Gazette, direct that any enactment in force in such tract shall cease to be in force therein,[3] but not so as to affect the criminal jurisdiction of any Court over European British subjects. *Power to direct that enactment shall cease to be in force.*

3. Whenever any question arises as to the line of boundary between any tract to which the provisions of this Regulation have been extended as aforesaid and the adjoining territory in British India, such officer as the Chief Commissioner of Assam from time to time appoints may consider and determine such line of boundary, and the order made thereon by such officer, if confirmed by the said Chief Commissioner, shall be conclusive. *Settlement of question as to boundary.*

REGULATION 1 OF 1882.

(THE GARO HILLS REGULATION, 1882.)[4]

[5th August, 1882.]

WHEREAS Regulation 1 of 1876[5] (the Garo Hills Regulation, 1876), the operation of which was extended for one year by the Chief Commissioner's notification issued with the previous sanction of the Governor General in Council, on the 18th March, 1881, ceased to be in force on the thirty first day of March, 1882; *Preamble.*

...ssam Frontier Tracts Regulation

the Assam Frontier Tracts Regu-

Appendix I, Table D.

[4] LOCAL EXTENT.—This Regulation extends only to the Garo Hills district—see s. 1.

ORDERS.—For orders under s. 2, see the Assam Local Statutory Rules and Orders, 1893, pp. 410 to 41[illegible].

For an order under s. 6, vesting jurisdiction in the Deputy Commissioner of the Garo Hills district and the District Superintendent of Police, in respect of offences against this Regulation, see ib., p. 409.

[5] Reg. I of 1876 was repealed by the Repealing and Amending Act, 1897 (V of 1897).

and whereas it is desirable to re-enact certain provisions of the said Regulation;

It is hereby enacted as follows :—

Short title. **1.** This Regulation may be called the Garo Hills Regulation, 1882.

Local extent. Commencement. It extends only to the Garo Hills District, and shall come into operation on being published in the Assam Gazette.

Power to Chief Commissioner— **2.** The Chief Commissioner may, from time to time, subject to the control of the Governor General in Council, by notification in the Assam Gazette,—

to prohibit certain acts; (*a*) prohibit all or any persons, not being natives of the Garo Hills District, from doing any of the following acts within the limits of the said district without a license, that is to say :—

cutting wood,
hunting animals,
collecting wax, ivory, india-rubber or other jungle-products

and

to regulate the granting of licenses to do such acts. (*b*) prescribe the conditions and restrictions subject to which, and the amount of the fees on payment of which, and the persons by whom, licenses to do any of the said acts may be granted.

Penalties for offences against section 2. **3.** Any person who does any act in contravention of a notification issued under section 2 of this Regulation,

and any holder of a license under the said section who does any act in contravention of a restriction or condition imposed by such license,

shall be punished, for a first offence, with a fine not exceeding one hundred rupees, and, for each subsequent offence, with imprisonment of either description for a term which may extend to three months, or with a fine not exceeding five hundred rupees, or with both;

and the Magistrate by whom he is convicted may further order that all animals or carcasses of animals, and all wood, wax, ivory, india-rubber or other jungle-product found in his possession, and all animals, ropes, nets, guns, ammunition and other things used by him in the commission of such offence, shall be confiscated.

Acquisition of interests in land prohibited. **4.** It shall not be lawful for any British subject, or other person not being a native of the Garo Hills District, to acquire any interest in land or the product of land within the limits of the said district without the sanction of the Chief Commissioner, or of such officer as the Chief Commissioner may appoint in this behalf.

Any interest so acquired may be dealt with as the Chief Commissioner or the said officer may direct.

The Chief Commissioner may from time to time, by notification in the Assam Gazette, extend the prohibition contained in this section to any class of persons, natives of the said district, and may, from time to time, in like manner, cancel or vary such extension.

5. The provisions of sections 64 to 70, both inclusive, of the Indian Penal Code [1] shall apply to all fines imposed under the authority of this Regulation. Realization of fines and imprisonment on default of payment

6. The jurisdiction in respect of offences against this Regulation shall be exercised by such officers and subject to such conditions as the Chief Commissioner may, *from time to time by notification in the Assam Gazette*, direct. Jurisdiction

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REGULATION 1 OF 1883

(THE SYLHET AND CACHAR RURAL POLICE REGULATION 1883.)

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[1] Genl Acts Vol I

Maintenance of Policemen.

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16. Procedure in event of neglect or refusal of owner or occupier to maintain or pay policeman.
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THE SCHEDULE.

REGULATION 1 OF 1883.

(THE SYLHET AND CACHAR RURAL POLICE REGULATION, 1883.)[1]

A Regulation to provide for the appointment, maintenance and duties of the Rural Police in the Districts of Sylhet and Cachar.

[*26th May, 1883.*]

Preamble. WHEREAS it is expedient to provide for the appointment, maintenance and

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[1] LOCAL EXTENT.—This Regulation extends *proprio vigore* to the districts of Sylhet and Cachar, and may be extended, by notification, to the whole or any part of any other district in Assam—*see* s. 1.

It has been repealed as to all Villages (and Unions) in the districts of Sylhet and Cachar to which the Village Chaukidari Act, 1870 (Ben. Act VI of 1870), applies and in which a chaukidar has been appointed—*see* Ben. Act VI of 1870, s. 2, and Ben. Act I of 1871, s. 1 (as modified by Notification No. 2295-J., dated 7th June, 1897), *post*.

The application of the Regulation is barred in the Lushai Hills by notification—*see* Vol. II.

duties of the rural police in the districts of Sylhet and Cachar, It is hereby enacted as follows —

Preliminary

This Regulation may be called the Sylhet and Cachar Rural Police Regulation, 1883 and — Short title

It shall come into force on the first day of June, 1883 — Commencement

It extends, in the first instance, only to the districts of Sylhet and Cachar, but the Chief Commissioner of Assam may, from time to time, by notification in the official Gazette, extend it to the whole or any part of any other district under his administration — Local extent

2. In this Regulation— — Interpretation clause

"*house*" means any building used as a human dwelling or for the custody of property, and, in any particular district, includes all such buildings connected with a house as the Deputy Commissioner of such district may declare to be, for the purposes of this Regulation, part of such house, and

"rateable owner or occupier" means every owner or occupier of a house who is not for the time being exempted under the provisions hereinafter contained from assessment

3. Section 21 of Bengal Regulation 20 of 1817[1] is hereby repealed — Repeal

Constitution of Police circles

4. In every district there shall be rural police circles — Deputy Commissioner to fix limits of rural police circles

The Deputy Commissioner may, from time to time, fix the limits of such circles within his district

5. Each rural police circle shall be divided into beats for each of which one rural policeman shall be appointed — Circles to be divided into beats

Provided that no such beat shall contain less than twenty five or more than one hundred houses.

The limits of all beats existing as such when this Regulation comes into force shall be deemed to have been fixed hereunder

6. In each rural police circle the Deputy Commissioner may and on the application of a majority of the rateable owners and occupiers within such circle shall, appoint a panchayat of not less than three or more than five persons, being rateable owners or occupiers within such circle, to represent the rateable owners and occupiers within such circle, for the purposes of this Regulation — Panchayat may be appointed

Appointment, etc, of Policeman

7. Whenever there is a vacancy in the office of rural policeman in any circle, any number, not being less than five, of the rateable owners and occupiers within such circle, or the panchayat appointed under section 6, may — Rateable owners and occupiers may nominate rural policeman.

[1] The Bengal Police Regulation, 1817 The whole Regulation has since been repealed in Assam by the Repealing and Amending Act, 1897 (V of 1897)

apply to the Deputy Commissioner to appoint to such office a person nominated by them.

The Deputy Commissioner shall take such means as he thinks fit to ascertain whether the application represents the wishes of the majority of the rateable owners and occupiers within the circle.

Deputy Commissioner to appoint person nominated.

8. If the Deputy Commissioner finds that the application correctly states the wishes of the rateable owners and occupiers, or of a majority of them, he shall appoint the person nominated as aforesaid:

Provided that the Deputy Commissioner may refuse to appoint such person—

(*a*) if he is in the opinion of the Deputy Commissioner physically unfitted for the duties of rural policeman;

(*b*) if he has been convicted of any offence punishable with imprisonment which may extend to two years;

(*c*) if he is notoriously of bad character; or

(*d*) if he has been dismissed from the office of rural policeman or from any other public office.

Deputy Commissioner to appoint of himself in certain events.

9. If for any reason the Deputy Commissioner refuses to appoint the person nominated under section 7, or if the rateable owners and occupiers within any circle fail, within one month of the receipt of a notice from the Deputy Commissioner calling upon them to do so, to nominate the rural policeman to be appointed within such circle, the Deputy Commissioner may appoint to such office such person as he thinks fit.

Deputy Commissioner empowered to fine, suspend or dismiss rural policemen.

10. The Deputy Commissioner may, for any misconduct or neglect of duty, or on the application of the panchayat appointed under section 6 or of a majority of the rateable owners and occupiers within the circle, punish any rural policeman with fine which may extend to one month's salary, or with suspension or dismissal, or with such fine and suspension or such fine and dismissal.

Rural policeman already appointed to be deemed appointed under Regulation.

11. All rural policemen appointed when this Regulation comes into force shall be deemed to have been appointed hereunder.

Maintenance of Policemen.

Owners and occupiers to maintain rural policemen as agreed upon between them and such policemen.

12. Subject to the provisions next hereinafter contained, the rateable owners and occupiers of houses within a police-circle, or the panchayat on their behalf, shall maintain the rural policeman appointed for such circle, upon such terms and conditions as may be agreed upon between such owners and occupiers, or the panchayat on their behalf, and such policemen.

In event of any dispute as to maintenance of

13. If any dispute arises among any such owners and occupiers, or between any of them and any such policeman in respect of the terms and conditions upon which such policeman shall be maintained, the Deputy Commis-

sioner shall thereupon fix for such policeman a salary not exceeding five rupees per month, or, where the beat contains not less than ten permanent shops, a salary not exceeding six rupees per month

policemen, Deputy Commissioner to determine salary of policeman, and to fix the amount payable by each occupier

14. The amount payable by each owner or occupier in respect of any salary fixed under section 13 shall be fixed from time to time by the Deputy Commissioner with reference to the circumstances of such owner or occupier and the property belonging to him which is to be protected

Provided as follows —

(a) no owner or occupier shall be liable to pay more than eight annas monthly, except when the beat contains not less than ten permanent shops, in which case an amount not exceeding one rupee may be fixed as the amount payable monthly by the owner or occupier of any such shop,

(b) no person shall be liable to pay both as owner and occupier of one house, and, where a house is occupied, the owner shall be liable only in case of default on the part of the occupier

(c) the Deputy Commissioner may exempt on the ground of poverty any owner or occupier from assessment under this section

List showing amount payable by each occupier

15. A list showing the amount payable under section 14 by each owner and occupier shall be prepared by the Deputy Commissioner and published at some conspicuous place within the circle in such manner as the Local Government may direct, and shall remain in force until altered by the Deputy Commissioner and again so published

Procedure in event of neglect or refusal of owner or occupier to maintain or pay policeman

16. If any such owner or occupier neglect or refuse—

(a) to maintain any such rural policeman in accordance with the terms of conditions agreed upon, or

(b) if the salary of such policeman has been fixed under section 13 to pay the amount payable by such owner or occupier under section 14, the Deputy Commissioner shall on the application of such policeman,—

(i) in any case falling under clause (a) in which it has been agreed that the maintenance of the policeman shall be provided for by a payment in money only, and in all cases under clause (b) realize from such owner or occupier the amount payable by him and pay the same to such policeman,

(ii) in any case under clause (a), in which it has been agreed that the maintenance of the policeman shall be provided for by a payment partly or in whole in kind, fix the amount in money, which in his opinion is the equivalent to the amount in kind payable by such owner or occupier, and realize such amount, together with the amount (if any) in money payable by him, and pay the same to such policeman

The amount realized under this section from any owner or occupier shall not exceed the amount which he is liable to pay under section 14, together with the costs of realizing it:

Provided that the Deputy Commissioner may realize the salaries of rural policemen under this section only for the current year, and the year immediately preceding it.

Amount how to be recoverable.

17. Any amount realizable under section 16 by the Deputy Commissioner may be recovered by him, together with the costs of such recovery, by distress and sale of the moveable property of the defaulter.

Powers and Duties of Rural Policemen.

Duties of rural policemen.

18. Every rural policeman appointed under this Regulation shall perform the following duties:—

1st.—He shall give to the officer in charge of the police-station within the limits of which his circle is situate immediate information of the occurrence of every unnatural or sudden death, and of every death under circumstances raising a reasonable suspicion that an offence has been committed, and of every offence specified in the Schedule hereto annexed which he knows, or has reason to believe, to have been committed within his beat; and he shall further keep the police informed of all disputes which are likely to lead to any riot or serious affray.

2nd.—He shall arrest all proclaimed offenders and any person who, in his presence, commits any offence specified in the said Schedule, and any person against whom a reasonable complaint has been made, or a reasonable suspicion exists, or a hue-and-cry has been raised, of his having been concerned in any such offence, whether such offence has been or is being committed within his beat or beyond it, and shall without delay convey any person so arrested to the said police-station.

3rd.—He shall, to the best of his ability, prevent, and may interpose, for the purpose of preventing, the commission of any offence specified in the said Schedule.

4th.—He shall exercise, in respect of the said offences, the powers conferred on police-officers by sections 58, 151 and 152 of the Code of Criminal Procedure.[1] X of 1882.

5th.—He shall assist private persons in making such arrests as they may lawfully make, and shall report such arrests without delay to the officer in charge of the said police-station.

6th.—He shall observe and, from time to time, report to the officer aforesaid the movements of all persons within his beat who are by repute

[1] Act X of 1882 has been repealed and re-enacted by Act V of 1898 (the Code of Criminal Procedure, 1898), Genl. Acts, Vol. V.

habitual robbers, house-breakers, thieves or habitual receivers of stolen property

7th—He shall report to the officer aforesaid the arrival in the neighbourhood of his beat of any person who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself, or who is reasonably suspected of an intention to commit a cognizable offence

8th—He shall present himself at the said police station at such times as the Deputy Commissioner shall direct

9th—He shall give immediate information to the officer aforesaid of every outbreak of cholera, small-pox or such other epidemic disease as the Deputy Commissioner may direct, and, if so ordered, and in accordance with such rules as may, from time to time, be made by the Local Government in this behalf, he shall report all births and deaths which take place within his beat

I of 1878
VII of 1891.
XI of 1878
Ben Act VII of 1878
Ben. Act IV of 1881

10th—He shall give immediate information to the officer aforesaid of every act or omission punishable under the Opium Act, 1878, [1] [2][the Assam Forest Regulation, 1891], the Indian Arms Act, 1878, [1] the Bengal Excise Act, 1878, [3] or the Bengal Excise Act Amendment Act, 1881 [3]

11th.—He shall, when so required by the process-servers of the Revenue, Criminal or Civil Courts, assist them in the execution of their duty

12th—He shall supply to the best of his ability any local information which the Deputy Commissioner or officer in charge of the sub-division or any officer of police may require

13th—He shall obey the orders of the Deputy Commissioner or officer in charge of the sub division, or any officer of police, in regard to keeping watch within his beat, and in regard to all other matters connected with his duties as rural policeman

14th—He shall render such assistance to the Deputy Commissioner in the revenue-administration of the circle as may be required of him by that officer

15th—He may, by the order of the Deputy Commissioner, or officer in charge of the sub-division, or District Superintendent of Police, be employed temporarily beyond the limits of his beat, and, while so employed, shall exercise the same powers and perform the same duties as when employed within his beat

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[1] Genl Acts, Vol II

[2] These words and figures in square brackets in s 8, cl 10th, were substituted for the words and figures "the Indian Forest Act, 1878," by the Amending Act, 1897 (V of 1897), Sch. II,—*see ante*

[3] Printed *post*

Village policeman not to withdraw from duties or resign without permission.

19. No rural policeman shall withdraw himself from the duties of his office without the permission of the Deputy Commissioner; and no rural policeman shall resign his office without the permission of the Deputy Commissioner unless he has given at least two months previously, to the officer in charge at the police-station within the limits of which the circle lies, a written notice of his intention to resign such office.

Penalties for breach of duties.

20. Every rural policeman who—

(*a*) in contravention of section 19 withdraws from the duties of his office or resigns his office, or

(*b*) is guilty of cowardice or of wilful misconduct in his office or of neglect of duty, or

(*c*) offers any unnecessary personal violence to any person in his custody, may, in addition to any other penalty to which he may be liable, be punished with imprisonment for a term which may extend to one month, or with fine which may extend to ten rupees, or with both.

Bar of prosecutions.

No complaint against a rural policeman of any act or omission punishable under this section shall be entertained by any Court or Magistrate unless the prosecution is instituted by order of, or under authority from, the Deputy Commissioner.

Miscellaneous.

Power to Deputy Commissioner to delegate his powers to certain officers.

21. The Deputy Commissioner may delegate any of his powers under the Regulation to the District Superintendent of Police or to an officer in charge of a sub-division. In case of such delegation, the Deputy Commissioner may revise any order passed under this Regulation by the officer to whom he has so delegated his powers.

Control of Local Government.

22. All proceedings of the Deputy Commissioner under this Regulation shall be subject to control or revision by the Local Government.

Duty of zamindars to report crime not affected.

23. Nothing contained in this Regulation shall diminish or in any way affect any obligation imposed on any zamindar or other land-holder by any law for the time being in force to report offences occurring within his estate or holding.

Power to make rules.

24. The Local Government may, from time to time, make rules, consistent with this Regulation, for the guidance of officers in all matters connected with its enforcement.

Rules to be published and have force of law.

25. All rules made under this Regulation shall be published in the official Gazette, and shall thereupon have the force of law.

THE SCHEDULE

(See section 18)

Offence[1] to be reported, and for which rural policeman may arrest —

Rioting	Dacoity.
Counterfeiting coin	Making preparation to commit dacoity
Murder	Mischief by destroying or moving, etc , a land mark fixed by public authority
Culpable homicide	Mischief by fire
Causing grievous hurt	House-breaking
Rape	Attempts to commit and abetments of above offences
Theft	
Robbery	

REGULATION 2 OF 1883

(THE ASSAM POLICE OFFICERS REGULATION, 1883)[2]

[22nd September, 1883]

A Regulation to enable certain Police-officers in Assam to exercise authority other than that prescribed by section 20 of Act 5 of 1861,[3] and to empower the Chief Commissioner to confer on such officers certain magisterial powers

WHEREAS, by section 20 of Act 5 of 1861 [3] *(for the regulation of Police)*, it was enacted that Police-officers enrolled under that Act should not exercise any authority except the authority provided for a Police-officer under that Act and any Act which should thereafter be passed for regulating criminal procedure ,

X of 1882. And whereas, by section 14 of the Code of Criminal Procedure,[4] which repealed certain similar provisions in Act 5 of 1861 [3] *(for the regulation of Police)*, it was enacted that the Local Government might confer upon any person all or any of the powers conferred or conferrible by or under that Code on a Magistrate of the first, second or third class in respect to particular

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[1] *Sic, Read* Offences

[2] LOCAL EXTENT —As to the local extent of this Regulation, *see* s. 1 (2) and footnote thereunder *post.*

[3] The *Police Act*, 1861 Genl. Acts, Vol I

[4] Act X of 1882 has been repealed and re-enacted by Act V of 1898 (the Code of Criminal Procedure, 1898), Genl. Acts Vol. V

cases, or to a particular class or particular classes of cases, or in regard to cases generally, in any local area outside the Presidency-towns, but that no powers should be conferred under that section on any Police-officer below the grade of Assistant District Superintendent, and that no powers should be so conferred except so far as might be necessary for preserving the peace, preventing crime and detecting, apprehending and detaining offenders in order to their being brought before a Magistrate, and *for the* performance by the officer of any other duties imposed upon him by any law for the time being in force;

And whereas it is expedient that Police-officers in Assam not below the grade of Assistant District Superintendent be enabled to exercise authority other than that prescribed by section 20 of Act 5 of 1861[1];

And whereas it is also expedient to empower the Chief Commissioner of Assam to confer on any Police-officer in Assam, not below the same grade, all or any of the powers conferred or conferrible by or under the Code of Criminal Procedure [2] on a Magistrate of the first, second or third class in respect to all non-cognizable cases other than those which may have been investigated by the police; X of

It is hereby enacted as follows:—

Short title. **1.** (*1*) This Regulation may be called the Assam Police-officers Regulation, 1883.

Local extent. (*2*) It extends to all the territories administered by the Chief Commissioner of Assam in which Act 5 of 1861 [1] (*for the regulation of Police*) or the Code of Criminal Procedure [2] is for the time being in force.[3] X of

Commencement. (*3*) And it shall come into force at once.

Meaning of "non-cognizable case." **2.** In this Regulation the expression "non-cognizable case" shall have the meaning assigned to it by the Code of Criminal Procedure.[2] X of

Application of section 20 of Act 5 of 1861 limited to certain Police-officers. **3.** Section 20 of Act 5, 1861[1] (*for the regulation of Police*) shall apply only to Police-officers below the grade of Assistant District Superintendent.

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1 The Police Act, 1861, Genl. Acts, Vol. I.

2 Act X of 1882 has been repealed and re-enacted by Act V 1898 (the Code of Criminal Procedure, 1898), and this reference should now be taken to be made to the latter Act—*see* s. 3 (*1*) thereof, Genl. Acts, Vol. V.

3 The Police Act, 1861 (V of 1861), was extended to Assam by Notification No. 1871, dated 11th April, 1862 (*see* the Assam Local Statutory Rules and Orders, 1893, p. 3); but the application of the Act in the Lushai Hills (except the tract transferred from the Cachar District in 1904) has been barred by notification (*see* Vol. II Appendix II, Table D).

The Code of Criminal Procedure, 1898 (Act V of 1898), extended to the whole of Assam [*see* s. 1 (*2*) thereof, in Genl. Acts, Vol. V]; but the application of the Act in the Dibrugarh Frontier Tract, the Garo Hills, *Khási and Jaintia Hills* and *Lushai Hills Districts, the* Mikir Hills Tract, the Nága Hills District (except the Mokokchang Sub-division) and the North Cachar Hills has been barred (except as to jurisdiction over European British subjects) by notification (*see* Vol. II, Appendix II, Table D).

Reg. II of 1883 has been extended, by notification under the Scheduled Districts Act, 1874 (XIV of 1874), to the Lushai Hills District (including the tract transferred from the Cachar District in 1904) and the Mokokchaug Sub-division of the *Nága Hills District* (*see* Vol. II, Appendix I, Table B).

X of 1882 **4.** Notwithstanding anything contained in section 14 of the Code of Criminal Procedure [1] [*or, in places where the Code is not in force, in section 6* [2] *of Act 5 of 1861 (for the regulation of Police)*,] the Chief Commissioner of Assam may confer on any Police officer, not below the grade of Assistant District Superintendent, all or any of the powers conferred or conferrible by or under the Code on a Magistrate of the first, second or third class in respect to non cognizable cases

Provided that a Police officer on whom any powers are conferred under this section shall not exercise those powers in any case which may have been investigated by the police

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REGULATION 3 OF 1884

(THE ASSAM FRONTIER TRACTS REGULATION, 1884)[3]

[24th May, 1884]

II of 1880 A Regulation to empower the extension of the Assam Frontier Tracts Regulation, 1880,[4] to certain tracts in Assam, *and to declare that Act 10 of 1872 (the Code of Criminal Procedure) shall be deemed never to have come into force in the Garo Hills District, the Naga Hills District and the Khási and Jaintia Hills District* [5]

II of 1880 WHEREAS it is expedient to take power to extend the Assam Frontier Tracts Regulation 1880,[4] to certain tracts within the territories administered by the Chief Commissioner of Assam which, though not frontier tracts within the meaning of that Regulation, are inhabited or frequented by barbarous or semi civilized tribes ,

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[1] Act X of 1882 has been repealed and re-enacted by Act V of 1898 (the Code of Criminal Procedure 1898) General Acts, Vol. V

[2] S. 6 of Act V of 1861 was repealed by Act X of 1882 It ran thus —

III —*see ante*

LOCAL EXTENT —This Regulation extends to the Garo Hills, Khási and Jaintia Hills and Nowgong Districts—*see* s 1

[4] Printed *ante*

[5] The matter printed in italics is now obsolete Act X of 1872 was repealed and re enacted by Act X of 1882, which again has been repealed and re-enacted by Act V of 1898 (the Code of Criminal Procedure, 1898) The operation of the latter Act has been barred (except as to jurisdiction over European British subjects) by notification under the Assam Frontier Tracts Regulation, 1880 (II of 1880, printed *ante*) in all the areas in which that Regulation is in force, including the Garo Hills, Nága Hills and Khasi and Jaintia Hills Districts—*see* Vol. II, Appendix II, Table D

cases, or to a particular class or particular classes of cases, or in regard to cases generally, in any local area outside the Presidency-towns, but that no powers should be conferred under that section on any Police-officer below the grade of Assistant District Superintendent, and that no powers should be so conferred except so far as might be necessary for preserving the peace, preventing crime and detecting, apprehending and detaining offenders in order to their being brought before a Magistrate, and for the performance by the officer of any other duties imposed upon him by any law for the time being in force;

And whereas it is expedient that Police-officers in Assam not below the grade of Assistant District Superintendent be enabled to exercise authority other than that prescribed by section 20 of Act 5 of 1861[1];

And whereas it is also expedient to empower the Chief Commissioner of Assam to confer on any Police-officer in Assam, not below the same grade, all or any of the powers conferred or conferrible by or under the Code of Criminal Procedure[2] on a Magistrate of the first, second or third class in respect to all non-cognizable cases other than those which may have been investigated by the police; X of

It is hereby enacted as follows:—

Short title.

1. (*1*) This Regulation may be called the Assam Police-officers Regulation, 1883.

Local extent.

(2) It extends to all the territories administered by the Chief Commissioner of Assam in which Act 5 of 1861[1] (*for the regulation of Police*) or the Code of Criminal Procedure[2] is for the time being in force.[3] X of 1

Commencement.

(*3*) And it shall come into force at once.

Meaning of "non-cognizable case."

2. In this Regulation the expression "non-cognizable case" shall have the meaning assigned to it by the Code of Criminal Procedure.[2] X of 18

Application of section 20 of Act 5 of 1861 limited to certain Police-officers.

3. Section 20 of Act 5, 1861[1] (*for the regulation of Police*) shall apply only to Police-officers below the grade of Assistant District Superintendent.

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[1] The Police Act, 1861, Genl. Acts, Vol. I.

[2] Act X of 1882 has been repealed and re-enacted by Act V 1898 (the Code of Criminal Procedure, 1898), and this reference should now be taken to be made to the latter Act—*see* s. 3 (*1*) thereof, Genl. Acts, Vol. V.

[3] The Police Act, 1861 (V of 1861), was extended to Assam by Notification No. 1871, dated 11th April, 1862 (*see* the Assam Local Statutory Rules and Orders, 1893, p. 3); but the application of the Act in the Lushai Hills (except the tract transferred from the Cachar District in 1904) has been barred by notification (*see* Vol. II Appendix II, Table D).

The Code of Criminal Procedure, 1898 (Act V of 1898), extended to the whole of Assam [*see* s. 1 (*2*) thereof, in Genl. Acts, Vol. V]; but the application of the Act in the Dibrugarh Frontier Tract, the Garo Hills, Khási and Jaintia Hills and Lushai Hills Districts, the Mikir Hills Tract, the Nága Hills District (except the Mokokchang Sub-division) and the North Cachar Hills has been barred (except as to jurisdiction over European *British subjects*) by notification (*see* Vol. II, Appendix II, Table D).

Reg. II of 1883 has been extended, by notification under the Scheduled Districts Act, 1874 (XIV of 1874), to the Lushai Hills District (including the tract transferred from the Cachar District in 1904) and the Mokokchaug Sub-division of the Nága Hills District (*see* Vol. II, Appendix I, Table B).

4. Notwithstanding anything contained in section 14 of the Code of Criminal Procedure [1] [*or, in places where the Code is not in force in section 6* [2] *of Act 5 of 1861 (for the regulation of Police)*,] the Chief Commissioner of Assam may confer on any Police officer, not below the grade of Assistant District Superintendent, all or any of the powers conferred or conferrible by or under the Code on a Magistrate of the first, second or third class in respect to non cognizable cases

Local Government empowered to confer magisterial powers on certain Police officers in respect to non-cognizable cases.

Provided that a Police officer on whom any powers are conferred under this section shall not exercise those powers in any case which may have been investigated by the police

REGULATION 3 OF 1884

(THE ASSAM FRONTIER TRACTS REGULATION 1884)[3]

[*24th May, 1884*]

A Regulation to empower the extension of the Assam Frontier Tracts Regulation, 1880,[4] to certain tracts in Assam, *and to declare that Act 10 of 1872 (the Code of Criminal Procedure) shall be deemed never to have come into force in the Garo Hills District the Naga Hills District and the Khasi and Jaintia Hills District* [5]

WHEREAS it is expedient to take power to extend the Assam Frontier Tracts Regulation 1880 [4] to certain tracts within the territories administered by the Chief Commissioner of Assam which though not frontier tracts within the meaning of that Regulation are inhabited or frequented by barbarous or semi civilized tribes ,

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[1] Act X of 1882 has been repealed and re-enacted by Act V of 1898 (the Code of Criminal Procedure 1898) Genl Acts Vol V

[2]

necessary for the preservation of the peace the prevention of crime and the detection apprehension and detention of offenders in order to their being brought before a Magistrate and so far as may be necessary for the performance of the duties assigned to them by this Act

[3] SHORT TITLE —This short title was given by the Amending Act 1897 (V of 1897) Sch III —*see ante*

LOCAL EXTENT —The Regulation extends to the Garo Hills Khasi and Jaintia Hills and Nowgong Districts—*see* p 1

[4] Printed *ante*

[5]

[1] *And whereas it is also expedient to remove doubts which have been raised as to whether, when the Garo Hills Act, 1869, was repealed by the extension of the Scheduled Districts Act, 1874,*[2] *to the territories administered by the Chief Commissioner of Assam, Act 10 of 1872 (the Code of Criminal Procedure) came into force in those portions of those territories to which the Garo Hills Act, 1869, had previously applied or been extended, namely, the Garo Hills District, the Nága Hills District and the Khási and Jaintia Hills District;*

It is hereby enacted as follows:—

Power to extend Regulation II of 1880 to certain districts.

1. Notwithstanding anything contained in the Assam Frontier Tracts Regulation, 1880, the Governor General in Council may extend that Regulation,[3] in the manner prescribed in section 1 thereof, to the Garo Hills District, the Khási and Jaintia Hills Districts and such portion of the Nowgong District as the Governor General in Council may direct, as if the same were frontier tracts.

Act X of 1872 declared never to have been in force in certain districts.

2. *Act 10 of 1872 (the Code of Criminal Procedure) shall be deemed never to have come into force in the Garo Hills District, the Nága Hills District or the Khási and Jaintia Hills Districts.*[1]

REGULATION 1 OF 1886.

(THE ASSAM LAND AND REVENUE REGULATION, 1886.)

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CHAPTER I.

PRELIMINARY.

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[1] The matter printed in italics is now obsolete. Act X of 1872 was repealed and re-enacted by Act X of 1882, which again has been repealed and re-enacted by Act V of 1898 (the Code of Criminal Procedure, 1898). The operation of the latter Act has been [illegible] to jurisdiction over European British subjects), by notification under the Assam Frontier Tracts Regulation, 1880 (II of 1880, printed *ante*), in all the areas in which that Regulation is in force, including the Garo Hills, Nága Hills and Khási and Jaintia Hills Districts—*see* Vol. II, Appendix II, Table B.

[2] Genl. Acts, Vol. II.

[3] For places to which the Assam Frontier Tracts Regulation, 1880 (II of 1880), has been extended, *see* footnote 1 thereto, *ante*.

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SECTIONS.

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REGULATION I OF 1886.

(THE ASSAM LAND AND REVENUE REGULATION, 1886.)[1]

[*3rd April, 1886.*]

CHAPTER I.

PRELIMINARY.

1. (*1*) This Regulation may be called the Assam Land and Revenue Regulation, 1886; and Short title, commencement and local extent.

(*b*)

ib., p 2,

(*c*) with the exception of ss. 18, 19, 30, 31, 33 (*1*), clause (2), 33, clause (3), so far as that clause relates to the delivery of an acceptance, 40, 41, 42, 65, 96 to 121 (Ch. VI), in the North Cachar Hills, on the 1st September, 1896,—*see ib.*, p 2, and

(*d*) with the exception of ss. 3 to 159, in the Garo, Khási and Jaintia and Nága Hills, on the 1st April, 1897,—*see ib.*, p 2

The only part of Assam in which no portion of the Regulation has been brought into force is the Lushai Hills District, and its operation there has been expressly barred by notification under the Assam Frontier Tracts Regulation, 1880 (II of 1880),—*see* Vol. II, Appendix II, Table D

LOCAL EXTENT OF AMENDING REGULATIONS.—Reg II of 1889 amends ss. 70 (*1*), 72, 74(2), 75, 79, 81 and 85 of Reg. I of 1886, and extends to the same areas as those sections, *viz.*, the Districts of Cachar (including the North Cachar Hills), Darrang, Goálpara, Kámrup, Lakhimpur, Nowgong, Sibságar (including the tract transferred from the Nága Hills District in 1901) and Sylhet

Reg. II of 1905 amends ss. 12, 68 and 90 (2) of, and inserts new sections 53A, 69A, 116A

ther rules under ss. 12 and 29, *see* Notification No 9405 [illegible], dated 13th September, 1906, Eastern Bengal and Assam Gazette, 1906, Pt II, p 926, for further rule as to suspension and remission of revenue in cases of local calamity, *see* Notification No 5154 C, dated 25th April, 1907, Eastern Bengal and Assam Gazette, 1907, Pt. II, p. 504, No. 1899 R, dated 5th May 1913, Assam Gazette, 1913, Pt. II, p 511

(2) It shall come into force on such dates and in such territories under the administration of the Chief Commissioner of Assam as the Chief Commissioner, with the previous sanction of the Governor General in Council, may direct by notification in the local official Gazette:

Provided that—

(a) any such notification may declare that any portion of this Regulation shall not be in force in any territory to which the Regulation may be extended; and

(b) the Chief Commissioner may, with the previous sanction of the Governor General in Council, direct, by notification in the local official Gazette, that any portion of this Regulation shall cease to be in force in any territory to which the Regulation may have been extended.

[1][(3) The Chief Commissioner may in like manner amend, vary or rescind any notification issued under sub-section (2).]

2. On and from the date on which this Regulation comes into force in any territory, the enactments mentioned in the Schedule hereto annexed in so far as they apply to, or are in force in, that territory, and all regulations and rules (if any) in force there relating to any of the matters provided for by this Regulation, shall be repealed:

Provided that—

(a) this repeal shall not revive any enactment repealed, or affect anything done, or any offence committed, or any fine or penalty incurred, or any proceedings commenced, before this Regulation comes into force; and

(b) all rules prescribed, appointments and settlements made, powers conferred and notifications published under any enactment hereby repealed, and all other rules (if any) in force on the date on which this Regulation comes into force relating to any of the matters hereinafter dealt with, shall (so far as they are consistent with this Regulation and could be prescribed, made, conferred or published thereunder) be deemed to have been respectively prescribed, made, conferred and published thereunder.

3. In this Regulation, unless there is something repugnant in the subject or context,—

(a) "the commencement" of this Regulation, used with reference to any local area, means the date on which it comes into force in that local area:

(b) "estate" includes—

(1) any land subject, either immediately or prospectively, to the payment of land-revenue, for the discharge of which a separate engagement has been entered into;

[1] Sub-section (3) was added by the Amending Act, 1897 (V of 1897), Sch. II—*see ante*.

(2) any land subject to the payment of, or assessed with, a separate amount as land revenue, although no engagement has been entered into with the Government for that amount,

(3) any local area for the appropriation of the produce or products whereof a license or farm has been granted under rules made by the Chief Commissioner under section 155, clause (*e*) or clause (*f*),

(4) any char or island thrown up in a navigable river which under the laws in force is at the disposal of the Government,

(5) any land which is for the time being entered in the Deputy Commissioner's register of revenue free estates as a separate holding,

(6) any land, being the exclusive property of the Government of which the Chief Commissioner has directed the separate entry in the registers of revenue paying and revenue free estates mentioned in Chapter IV

Explanation —Any land gained by alluvion or by dereliction of a river to any estate as here defined which under the laws in force is considered an increment to the tenure to which the land has accreted, shall be deemed to be part of that estate

(*c*) "permanently settled estate" means any estate in the districts of Sylhet and Goalpara included in the decennial settlement of the Lower Provinces of Bengal, or permanently settled at any subsequent date under any law for the time being in force

(*d*) "temporarily settled estate" means any estate not being a revenue-free or permanently settled estate

(*e*) "land revenue" means any revenue assessed by Government on an estate, and includes any tax assessed in lieu of land revenue

(*f*) "proprietor" means the owner of any estate permanently settled or entered on the Deputy Commissioner's register of revenue-free estates

(*g*) "landholder" means any person deemed to have acquired the status of a landholder under section 8

(*h*) "settlement-holder" means any person, other than a proprietor, who has entered into an engagement with the Government to pay land revenue, and includes a landholder

(*i*) "recorded proprietor," "recorded landholder," "recorded sharer" and "recorded possession" mean any proprietor, landholder, sharer or possession as the case may be, registered in the general registers prescribed in Chapter IV

(*j*) "agricultural year" means the year commencing on the 1st April, or on such other date as the Chief Commissioner may, in the case of any specified local area, by notification, appoint

(*k*) "notification" means a notification published in the local official Gazette and

(*l*) "prescribed" means prescribed by rules made under this Regulation.

CHAPTER II.

RIGHTS OVER LAND.

4. This Chapter shall apply to all land except the following :—

(*a*) land included in any forest constituted a reserved forest under the law for the time being in force ;

(*b*) the soil of any public road, canal, drain or embankment ;

(*c*) land included in any military cantonment or civil station ; or

(*d*) any land which the Chief Commissioner may, by notification, except from the operation of this Chapter.

5. (*1*) When the boundaries of any land excepted under section 4 from the operation of this Chapter need definition for the purposes of that section and no other mode of defining them is provided by law, the Chief Commissioner shall cause them to be defined by the Deputy Commissioner.

(*2*) If, before the boundaries are defined, any question arises as to whether any land is included within them, it shall be decided by the Deputy Commissioner.

(*3*) The order by which a Deputy Commissioner defines any boundaries or decides any question, under this section shall, subject to the provisions of section 151 of this Regulation, be final.

6. No right of any description shall be deemed to have been, or shall be, acquired by any person over any land to which this Chapter applies, except the following :—

(*a*) rights of proprietors, landholders and settlement-holders other than landholders, as defined in this Regulation, and other rights acquired in manner provided by this Regulation ;

(*b*) rights legally derived from any right mentioned in clause (*a*) ;

(*c*) rights acquired under sections 26 and 27 of the Indian Limitation Act, 1877[1] ; XV of 1877.

(*d*) rights acquired by any person as tenant under the Rent Law[2] for the time being in force :

Provided that nothing in this section shall be held to derogate from the terms of any lease granted by or on behalf of the British Government.

7. Proprietors shall, subject to the provisions of this Regulation, have the same rights and enjoy the same privileges in respect of lands included in their estates as they have at the commencement of this Regulation.

8. (*1*) (*a*) Any person who has before the commencement of this Regulation held immediately under the Government for ten years continuously any

[1] See now the Indian Limitation Act, 1908 (IX of 1908), Genl. Acts, Vol. VI.
[2] See now the Landlord and Tenant Procedure Act, 1869 (Ben. Act VIII of 1869), *post*.

land not included either in a permanently-settled estate or in a revenue-free estate, and who has during that period paid to the Government the revenue due thereon, or held the same under an express exemption from revenue, and,

(*b*) except as provided by section 15, any person who has, whether before or after the commencement of this Regulation, acquired any such land under a lease granted by or on behalf of the Government, the term of which is not less than ten years,

shall be deemed to have acquired the status of a landholder in respect of the land

(*2*) When land held by one person has come immediately by transfer or succession to be held by another, the holding shall, for the purposes of sub-section (*1*), clause (*a*), be deemed to have been continuous, and the latter person may, in reckoning the length of his holding, add the holding of the former to his own.

(*3*) When any revenue has been paid in respect of land by any person holding the land under another, that revenue shall, for the purposes of the said clause, be deemed to have been paid by the latter person

Rights of landholders

9. A landholder shall have a permanent, heritable and transferable right of use and occupancy in his land subject to—

(*a*) the payment of all revenue, taxes, cesses and rates from time to time legally assessed or imposed in respect of the land,

(*b*) the reservation in favour of the Government of all quarries and of all mines, minerals and mineral oils, and of all buried treasure, with full liberty to search for and work the same, paying to the landholder only compensation for the surface damage as estimated by the Deputy Commissioner, and

(*c*) the special conditions of any engagement into which the landholder may have entered with the Government

Forfeiture of landholder's rights on relinquishment.

10. Any landholder who, after the commencement of this Regulation, voluntarily relinquishes any land and ceases to pay the revenue assessed thereon shall at once forfeit his status of landholder in respect of that land

Rights of settlement-holders

11. A settlement holder, who is not a landholder shall have no rights in the land held by him beyond such as are expressed in his settlement lease

Power to make rules for the disposal of Government lands and ejectment therefrom of unauthorized occupiers.

[1]**12.** In the case of any land over which no person has the rights of a proprietor, landholder or settlement holder under this Regulation, the Chief Commissioner may make rules to provide for—

(*1*) the disposal by way of grant, lease or otherwise of such land,

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[1] Th ... sam Land and Revenue (Amend ... is brought into force, by notificat ... the original s. 12 was in force (s ... except the North Cachar Hills.

"12 ... by way of grant, lease or otherwise of any land over which no person has the rights of a proprietor, landholder or settlement holder under this Regulation."

Power to make rules for the disposal of Government lands.

(2) the ejectment of any person who has entered into unauthorized occupation of such land, and

(3) the disposal of any crop raised, or any building or other construction erected, without authority on such land.

13. The Chief Commissioner may make rules for the allotment from the land referred to in section 12 of grazing-grounds to the inhabitants of any village in the neighbourhood whom he considers to stand in need of such allotment, and for regulating and controlling the enjoyment of those grazing-grounds by persons permitted to resort thereto.

14. The Chief Commissioner may make rules for the allotment from the land referred to in section 12, for the use of tribes or families practising *jhum* or migratory cultivation, of areas suitable for such cultivation, of sufficient extent, and situated in localities reasonably convenient for the purposes of the persons to whom they are allotted, and for regulating and controlling the enjoyment of lands so allotted by persons permitted to resort to the same.

15. No person shall acquire, by length of possession or otherwise, any right over lands disposed of or allotted under section 12, section 13 or section 14 beyond that which is given by the rules made under the section.

16. The Deputy Commissioner, with the previous sanction of the Chief Commissioner, may, by proclamation published in the prescribed manner, declare any collection of water, running or still, to be a fishery; and no right in any fishery so declared shall be deemed to have been acquired by the public or any person, either before or after the commencement of this Regulation, except as provided in the rules made under section 155:

Provided that nothing in this section shall affect any express grant of a right to fish made by or on behalf of the British Government, or any fishery-rights acquired by a proprietor before the commencement of this Regulation or the acquisition by a proprietor of such rights in any fishery forming after the commencement of this Regulation in this estate.

CHAPTER III.

SETTLEMENT AND RESUMPTION.

Part A.—General.

17. Settlement-operations may consist of one or more of the following:—

(*a*) survey and demarcation of land:

(*b*) assessment of land-revenue;

(*c*) record-of-rights.

18. (*1*) When any local area or class of estates is to be settled, the Chief Commissioner may, with the previous sanction of the Governor General in Council, issue a notification of settlement, and in the notification shall— General notification of settlement

(*a*) define the local area or class of estates to be settled, and

(*b*) specify the settlement-operations to be carried out

(*2*) The Chief Commissioner may, with the previous sanction of the Governor General in Council, amend or alter any such notification

19. (*1*) Every local area or class of estates shall be held to be under settlement from the date of any notification published under section 18 and relating thereto, until the issue of another notification declaring settlement-operations to be closed therein Period during which local area, etc, is deemed to be under settlement.

(*2*) Every local area or class of estates under settlement at the commencement of this Regulation shall be deemed to be under settlement within the meaning of this section without the issue of the notification prescribed by section 18

20. The Chief Commissioner may, by rule, direct that this Chapter or any one or more sections or portions of sections thereof shall not apply to any local area or to the settlement of any particular class of estates Power of Local Government to exclude any local area, etc, from the operation of any portion of this Chapter

Part B.—Survey and Demarcation of Land

21. Every proprietor and settlement holder of any land, and every person entitled to receive rent in respect of any land or occupying any land as a tenant shall, on the written requisition of a Survey-officer, furnish, personally or otherwise, as the Survey officer directs, such information or assistance as may be required by that officer for the purposes of the survey of the land Power to call for information and assistance

22. (*1*) Every proprietor and landholder of any land, and every person entitled to receive rent in respect of any land, shall, on the written requisition of a Survey-officer, erect and repair such boundary-marks on the land as the Survey-officer directs Power to require erection and maintenance of boundary-marks

(*2*) If any person on whom a requisition has been made under sub section (*1*) fails to erect or repair any boundary-mark mentioned in the requisition, the Survey-officer may erect or repair it.

23. (*1*) Whenever, in the course of survey, it comes to the knowledge of the Survey-officer that any boundary-dispute exists, he shall notify the same to the Settlement-officer, who shall proceed as follows:— Procedure in case of boundary disputes

(*a*) if the dispute is between the proprietors of different estates, the Settlement officer shall decide it on the basis of actual possession; or, if he is unable to satisfy himself as to which party is in possession, he may determine by summary inquiry who is the person best entitled to possession, and may put him in possession; or he

may refer the dispute to arbitration for decision on the merits, as provided in section 143:

(*b*) if the dispute is between the settlement-holders of different estates, the Settlement-officer shall, after due inquiry, determine the proper boundaries of those estates:

(*c*) if the dispute is between the Government and any settlement-holder as to whether any land is comprised in the settlement, the Settlement-officer shall, after due inquiry, determine the dispute.

(2) The order by which a Settlement-officer determines any boundaries or any dispute under clause (*b*) or clause (*c*) of this section shall, subject to the provisions of section 151 of this Regulation, be final.

Power of Survey-officer in certain cases to cause marks to be erected.

24. Whenever the Settlement-officer has determined a dispute under section 23, and the order has become final, or has been altered by a decree or order of any competent Court or authority, which has become final;

and whenever it comes to the notice of the Survey-officer that any boundary has been determined by a competent Court or authority;

the Survey-officer may cause such marks as he may think fit to be erected in order to secure the boundary permanently.

Penalty for removing boundary-marks.

25. Any person wilfully destroying, removing or damaging any boundary-mark (not being a land-mark fixed by the authority of a public servant within the meaning of section 434[1] of the Indian Penal Code) which has been lawfully erected shall be punished with fine which may extend to two hundred rupees for each mark so destroyed, removed or damaged, in addition to such sum as may be necessary to defray the expense of restoring the boundary-mark so destroyed, removed or damaged.

Obligation to give notice of injury to boundary-marks.

26. If a permanent boundary-mark lawfully erected on any land, or on the boundary thereof, is injured, destroyed or removed, or requires repairs, the proprietor or settlement-holder of the land, and every person entitled to receive rent in respect of the same or occupying it as a tenant, shall be bound to give immediate notice of the fact to the prescribed Revenue-officer; and every person who omits to give notice as required by this section shall be liable to a fine, not exceeding one hundred rupees, to be imposed by order of the Deputy Commissioner.

Power of Local Government to make rules.

27. The Chief Commissioner may make rules prescribing the mode in which any survey conducted under the provisions of this Part shall be effected and the manner in which all the cost of such a survey, compensation due on account of anything done under the orders of a Survey-officer, and all expenses, incurred under this Part in erecting and repairing boundary-marks, shall be apportioned among and levied from proprietors and landholders and persons entitled to receive rent in respect of land.

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[1] Genl. Acts, Vol. I.

Part C—Assessment of Land

28. All land shall be deemed liable to be assessed to revenue, except— Land liable to assessment

(a) land for the time being exempt from assessment under the express terms of any grant made or confirmed by, or on behalf of, the British Government,

(b) land in respect of which a tax is for the time being imposed under section 47

Provided that nothing in this section shall—

(1) affect the provisions of any settlement, grant or lease for the time being in force,

(2) authorize the assessment of any land included in the limits of a permanently-settled estate, unless it is shown that it was not included in the permanent settlement,

(3) affect any title to hold land revenue free if the title existed immediately before the commencement of this Regulation and was valid under the law then in force, or

(4) authorize the assessment of any land which has been held revenue-free for sixty years continuously unless it is shown that the right so to hold it has ceased to exist

29. The Chief Commissioner may make rules prescribing the principles on which the land revenue is to be assessed, the term for which, and the conditions on which, settlements are to be made, and the manner in which the Settlement-officer is to report for sanction his rates and method of assessment Settlement rules

30. The Settlement-officer shall, in accordance with the rules issued under section 29, frame general proposals of assessment for any local area or class of estates to be assessed, and submit those proposals to the Chief Commissioner Framing and submission of general proposals of assessment.

31. After the receipt of the orders of the Chief Commissioner thereon, and subject to such orders, the Settlement-officer shall ascertain, and make an order determining, the amount of the assessment proper for each estate, and shall, on a date and at a place to be notified by proclamation in the prescribed manner, offer a settlement based thereon to the person with whom the settlement of the estate is to be made Detailed assessment and declaration thereof to persons concerned

32. (1) The Settlement-officer shall offer the settlement to such persons (if any) as he finds to be in possession of the estate and to have a permanent, heritable and transferable right of use and occupancy in the same, or to be in possession as mortgagees of persons having such a right To whom settlement to be offered

(2) If the Settlement officer finds no person in possession as aforesaid, it shall be in his discretion, subject to such rules as the Chief Commissioner may make under section 12, to offer the settlement to any person he thinks fit

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33. (*1*) It shall be in the option of the person to whom a settlement is offered to accept or refuse the same.

(*2*) If he is willing to accept it, he shall deliver to the Settlement-officer an acceptance in writing under his hand, in the prescribed form.

(*3*) If a person to whom a settlement has been offered does not, within the prescribed time, deliver such an acceptance, or inform the Settlement-officer in the prescribed manner that he refuses the proposed settlement, he shall, if the Settlement-officer by an order in writing so directs, be deemed to have accepted the settlement.

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34. When a settlement has been accepted, the revenue fixed thereby and no more shall be payable from such date, and for such term, as the Chief Commissioner may fix in this behalf; or, if at the expiry of that term no new settlement has been made, until a new settlement has been made:

Provided that—

(*a*) a settlement shall not be final as against the Government until it has been sanctioned by the Governor General in Council;

(*b*) in the case of gain by alluvion or by dereliction of a river, or loss by diluvion, during the currency of the settlement, increments shall be assessed and reductions granted by the Deputy Commissioner according to such limitations as to the extent of gain or loss and such other conditions as may be prescribed; and

(*c*) in any local area to which the Chief Commissioner may, by notification, apply this clause, a settlement-holder may, after giving notice at the time and in the manner prescribed, relinquish the estate of which he has accepted a settlement, or any part thereof on which a separate part of the revenue has been apportioned, and shall thereupon be released from all future obligation to pay the revenue of the estate, or the part thereof so apportioned, as the case may be.

Effect of refusal of settlement.

35. If the person to whom a settlement is offered refuses to accept it, it shall be in the discretion of the Settlement-officer, subject to such rules as the Chief Commissioner may make under section 12, to exclude him for the term of the settlement from possession of the estate, and to offer the settlement thereof to any other person he thinks fit.

Procedure when some of those to whom the settlement is offered refuse.

36. In the case of an estate held by several persons jointly entitled to an offer of a settlement, if some of those persons refuse to accept the offer, it shall be in the discretion of the Settlement-officer to exclude them from possession for the term of settlement, and to offer the settlement of the whole estate to the others.

Settlement-officer when to apportion assessment

37. (*1*) When the whole or part of the land comprised in an estate is hel in severalty, the Settlement-officer shall, on the application of any one or mo of the settlement-holders, make an order apportioning to the several holdin revenue assessed on the estate.

(2) Except as provided by sub-section (*1*), a Settlement-officer shall not apportion the revenue of an estate over the lands comprised therein unless he is required so to do by rules made by the Chief Commissioner in this behalf

(3) No apportionment of the revenue by the Settlement-officer shall affect the joint and several liability for the revenue imposed by section 63

38. (*1*) A lunatic, minor or other person incapable of making a contract, shall be deemed to be duly represented for all the purposes of this Part by his manager

Representation of incompetent persons and of bodies of persons

(*2*) A body of persons for whom representatives have been appointed in this behalf under rules made under section 155, clause (*d*), shall be deemed to be duly represented for all the purposes of this Part by those representatives

39. Subject to the provisions of section 151 of this Regulation, the order of a Settlement-officer as to the person to whom a settlement should be offered, the amount of revenue to be assessed, and the nature and term of the settlement to be offered, shall be final, and a settlement concluded with that person shall be binding on all persons from time to time interested in the estate, but, except as provided by sections 35 and 36, no person shall, merely on the ground that a settlement has been made with him or with some person through whom he claims, be deemed to have acquired any right to or over any estate, as against any other person claiming rights to or over that estate

Effect of decision of Settlement officer as to settlement

Part D.—Record-of-rights

40. The Settlement-officer shall frame for each estate a record-of-rights in the prescribed manner

Record of rights.

41. (*1*) Entries in the record made under section 40 shall be founded on the basis of actual possession, and all disputes regarding such entries, whether taken up by the Settlement-officer of his own motion or on the application of a party concerned, shall be investigated and decided by him on that basis, and all persons not in possession, but claiming the right to be so, shall be referred by him to the proper Court

Entries in record and their effect.

(2) Every entry in the record-of-rights made under this section shall, until the contrary is proved, be presumed to be correct

42. Notwithstanding anything contained in section 41, in the case of any dispute respecting the class of any tenant under the Rent-Law for the time being in force, or the amount of rent payable by such tenant the Settlement-officer shall decide the dispute, or, where the rent is open to alteration, fix the rent according to the principles laid down in the said Rent-Law, and, subject to the provisions of section 151 of this Regulation, his order shall be final.

Determination of class of tenants and the rent payable by them

Part E.—Resumption.

43. Whenever a Deputy Commissioner has reason to believe that any land within his jurisdiction is being held wholly or partially free of assessment

Inquiry by Deputy Commis-

sioner regarding land liable to resumption.

and is liable to be assessed under section 28, he may institute an inquiry, and the person claiming the land shall be bound to prove his title to hold the same wholly or partially free of assessment, as the case may be.

Report to Local Government of result of inquiry.

44. The result of every inquiry instituted by a Deputy Commissioner under section 43 shall be reported to the Chief Commissioner for orders in the prescribed manner.

Order of Local Government on Deputy Commissioner's report.

45. (*1*) In any case reported to the Chief Commissioner under section 44, if the Chief Commissioner declares the land not liable to assessment, his order shall be final except on proof of fraud or collusion on the part or on behalf of the person interested.

(*2*) If the Chief Commissioner declares the land liable to assessment, the Deputy Commissioner shall inform the person interested of the Chief Commissioner's decision, and shall proceed to assess the land in accordance with the rules made under section 29 and to settle it with the person in possession.

Suit in Civil Court to set aside Local Government's order directing resumption.

46. Any person whose lands are assessed by order of the Chief Commissioner passed under section 45 may, at any time within one year from the date of his being informed of the Chief Commissioner's order, institute a suit in the Civil Court to have the order set aside, failing which the order shall be final.

Part F.—Hoe-tax or house-tax.

Hoe-tax or house-tax.

47. (*1*) The Chief Commissioner may direct that in lieu of the revenue assessable on any land there shall be collected an annual tax on each male person who has completed the age of eighteen years taking part in the cultivation of the land at any time during the year of assessment, or on each family or house of persons taking part as aforesaid.

(*2*) The rates of the tax, the class of persons upon whom, and the localities and mode in which, it may be assessed, shall be determined by the Chief Commissioner.

CHAPTER IV.

REGISTRATION.

Part A.—The Preparation and Maintenance of Registers.

Registers to be kept.

48. (*1*) The Deputy Commissioner of every district shall prepare and keep the following registers :—

(*a*) a general register of revenue-paying estates ;
(*b*) a general register of revenue-free estates ; and
(*c*) such other registers as the Chief Commissioner may direct.

(*2*) The registers shall be written in the prescribed form and language, and shall be prepared, arranged, kept and maintained in the prescribed manner.

49. Until registers are prepared for any tract under section 18, the Chief Commissioner may direct that any registers kept by, or under the control of, the Deputy Commissioner at the commencement of this Regulation shall be deemed to be registers prepared under that section — Existing registers

Part B.—Registration

50. After the commencement of this Regulation,— — Liability of persons succeeding to estates to give information of succession

(a) every proprietor or landholder succeeding to any estate or share in an estate, whether by transfer or inheritance, and obtaining possession of the same

(b) every joint proprietor or joint landholder of any estate assuming charge of the estate, or of any share therein on behalf of the other proprietors or landholders thereof,

(c) every person assuming charge of any estate of a proprietor or landholder, or of any share therein as manager and

(d) every mortgagee obtaining possession of any estate of a proprietor or landholder or of any share therein,

shall within six months from the date of taking possession or assumption of charge, apply to the Deputy Commissioner of the District on the general registers of which the estate is borne for registration of his name as such proprietor, landholder, manager or mortgagee and of the nature and extent of the interest in respect of which the application is made

51. Every person who, at the commencement of this Regulation, is in the possession of an estate or of any share in an estate as proprietor or landholder, or as manager of the estate of a proprietor or landholder or as mortgagee, may apply to the Deputy Commissioner of the district on the general register of which the estate is borne for registration of his name as such proprietor, landholder, manager or mortgagee and of the nature and extent of the interest in respect of which the application is made — Existing proprietor etc, may apply for registry

52. (1) On receiving an application under section 50 or section 51, the Deputy Commissioner shall if he considers there are sufficient grounds for proceeding with the application publish a notice requiring all persons who object to the registration of the name of the applicant, or who dispute the nature or extent of the interest in respect of which registration is applied for, to give in a written statement of their objections and to appear on a day to be specified in the notice, not being less than one month from the date thereof — Procedure on application for registration

(2) If the application alleges that the applicant has acquired possession of the estate, or share in an estate, in respect of which he applies to be registered, by transfer from any person, a copy of the notice shall be served on the alleged transferor, or, if he is dead, upon his heirs

53. On the day fixed in the notice issued under section 52, or as soon thereafter as possible, the Deputy Commissioner shall consider any objections which may be advanced, and, after such further inquiry (if any) as appears — Inquiry by Deputy Commissioner

sioner regarding land liable to resumption.

and is liable to be assessed under section 28, he may institute an inquiry, and the person claiming the land shall be bound to prove his title to hold the same wholly or partially free of assessment, as the case may be.

Report to Local Government of result of inquiry.

44. The result of every inquiry instituted by a Deputy Commissioner under section 43 shall be reported to the Chief Commissioner for orders in the prescribed manner.

Order of Local Government on Deputy Commissioner's report.

45. (*1*) In any case reported to the Chief Commissioner under section 44, if the Chief Commissioner declares the land not liable to assessment, his order shall be final except on proof of fraud or collusion on the part or on behalf of the person interested.

(*2*) If the Chief Commissioner declares the land liable to assessment, the Deputy Commissioner shall inform the person interested of the Chief Commissioner's decision, and shall proceed to assess the land in accordance with the rules made under section 29 and to settle it with the person in possession.

Suit in Civil Court to set aside Local Government's order directing resumption.

46. Any person whose lands are assessed by order of the Chief Commissioner passed under section 45 may, at any time within one year from the date of his being informed of the Chief Commissioner's order, institute a suit in the Civil Court to have the order set aside, failing which the order shall be final.

Part F.—Hoe-tax or house-tax.

Hoe-tax or house-tax.

47. (*1*) The Chief Commissioner may direct that in lieu of the revenue assessable on any land there shall be collected an annual tax on each male person who has completed the age of eighteen years taking part in the cultivation of the land at any time during the year of assessment, or on each family or house of persons taking part as aforesaid.

(*2*) The rates of the tax, the class of persons upon whom, and the localities and mode in which, it may be assessed, shall be determined by the Chief Commissioner.

CHAPTER IV.

Registration.

Part A.—The Preparation and Maintenance of Registers.

egisters to be kept.

48. (*1*) The Deputy Commissioner of every district shall prepare and keep the following registers :—

(*a*) a general register of revenue-paying estates ;

(*b*) a general register of revenue-free estates ; and

(*c*) such other registers as the Chief Commissioner may direct.

(*2*) The registers shall be written in the prescribed form and language, and shall be prepared, arranged, kept and maintained in the prescribed manner.

49. Until registers are prepared for any tract under section 48, the Chief Commissioner may direct that any registers kept by, or under the control of, the Deputy Commissioner at the commencement of this Regulation shall be deemed to be registers prepared under that section

Existing registers

Part B.—Registration

50. After the commencement of this Regulation,—

Liability of persons succeeding to estates to give information of succession

(*a*) every proprietor or landholder succeeding to any estate, or share in an estate, whether by transfer or inheritance, and obtaining possession of the same,

(*b*) every joint proprietor or joint landholder of any estate assuming charge of the estate, or of any share therein on behalf of the other proprietors or landholders thereof,

(*c*) every person assuming charge of any estate of a proprietor or landholder, or of any share therein, as manager and

(*d*) every mortgagee obtaining possession of any estate of a proprietor or landholder, or of any share therein,

shall, within six months from the date of taking possession or assumption of charge, apply to the Deputy Commissioner of the District on the general registers of which the estate is borne for registration of his name as such proprietor, landholder, manager or mortgagee, and of the nature and extent of the interest in respect of which the application is made

51. Every person who, at the commencement of this Regulation, is in the [illegible] possession of an estate or of any share in an estate as proprietor or landholder [illegible] or as manager of the estate of a proprietor or landholder, or as mortgagee [illegible] may apply to the Deputy Commissioner of the district on the general registers of which the estate is borne for registration of his name as such proprietor [illegible] landholder, manager or mortgagee, and of the nature and extent of the interest in respect of which the application is made

52. (*1*) On receiving an application under section 50 or section [illegible] Deputy Commissioner shall if he considers there are sufficient grounds [illegible] ceeding with the application, publish a notice requiring all persons [illegible] to the registration of the name of the applicant, or who dispute the [illegible] extent of the interest in respect of which registration is applied for [illegible] a written statement of their objections, and to appear on a [illegible] in the notice, not being less than one month from the [illegible]

(*2*) If the application alleges that the applicant has [illegible] the estate, or share in an estate, in respect of which he [illegible] by transfer from any person, a copy of the notice [illegible] transferor, or, if he is dead, upon his heirs.

53. On the day fixed in the notice [illegible] thereafter as possible, the Deputy Commissioner [illegible] which may be advanced, and, after such [illegible]

necessary to ascertain the truth of the succession, assumption of charge or possession alleged in the application, shall, if it appears to him that the succession accompanied by possession has taken place or that charge has been assumed or that the applicant is in possession, as the case may be, make an order directing the registration.

Power to Deputy Commissioner to direct registration on information received otherwise than through application.

[1]**53A.** *(1)* Notwithstanding anything contained in sections 50 to 53, where the Deputy Commissioner has received information, otherwise than through an application, of any such taking of possession or assumption of charge as is referred to in section 50, he may make an order directing the registration of the name of the person so taking possession or assuming charge:

Provided that—

(*a*) the information has been verified by local inquiry made by an officer not below the rank of an Assistant Settlement-officer, or

(*b*) notice has been published and an inquiry has been held in the manner prescribed by sections 52 and 53 as if an application for registration had been received from the person to whom the information relates.

(*2*) Where any person is aggrieved by an order directing registration under this section which has been made after verification of the information received by local inquiry only, he may apply to the Deputy Commissioner to have such order set aside, and on receipt of such application, the Deputy Commissioner shall cancel the registration and then proceed to publish the notice and hold the inquiry prescribed by sections 52 and 53 as if an application for registration had been received from the person whose name had been registered.

Power to put one party in possession in cases of dispute.

54. If, in the course of an inquiry made under section 53, a dispute regarding the fact of possession arises, and the Deputy Commissioner is unable to satisfy himself as to who is in possession, he shall ascertain by summary inquiry who is the party best entitled to possession, and shall put him in possession, and make the necessary entry in the proper register accordingly.

Registration of tenures in permanently-settled estates.

55. After the commencement of this Regulation, any person who holds a talukdari or other similar tenure which has been created since the time of the Permanent Settlement, and is held immediately from the proprietor of a permanently-settled estate, may apply to the Deputy Commissioner to have the tenure registered.

Procedure on application for registration under section 55.

56. *(1)* On receiving an application under section 55, the Deputy Commissioner shall serve a notice on the recorded proprietors of the estate in which the tenure is situated, and shall also publish a general notice requiring the proprietors or any persons interested, who object to the application, to file

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[1] S. 53A was inserted by the Assam Land and Revenue (Amendment) Regulation, 1905 (II of 1905), s. 4, *post.* It has been brought into force, by notification under s. 1 (2) of that Regulation, in all areas in which Ch. IV of Reg. I of 1886 is in force (*see* the "Local Extent" footnote to this Regulation, *ante*), except the North Cachar Hills.

within thirty days from the date of the notice a written statement of their objections.

(2) If within the time specified no objection is made, the Deputy Commissioner shall register the tenure.

(3) If within the time specified an objection is made by any recorded proprietor, or by any person interested not being a proprietor, the Deputy Commissioner shall examine the person so objecting, and, if it appears that he has probable ground of objection, shall suspend proceedings and refer the parties to the Civil Court.

(4) Provided that no tenure shall be registered under this section unless the Deputy Commissioner is satisfied that it has been created in good faith, and at a rent not less than the full amount of the revenue fairly payable in respect of the lands comprised in it.

Registration-fee

57. On any registry under this Chapter, fees may be levied from the person in whose favour the registration is made, at the prescribed rates.

Penalty for non-registration

58. (1) If any person, being required by section 50 to apply for registration, voluntarily or negligently omits to do so within the time specified in that section, he shall be liable to a fine, to be imposed by the Deputy Commissioner, which may extend to five times the amount of fee which would be payable under section 57 for registration, and to such further daily fine as the Deputy Commissioner may think fit to impose, not exceeding one rupee for each day during which the person omits to apply for registration after a date to be fixed by the Deputy Commissioner in a notice requiring him to apply for registration, and

(2) A person required by section 50 to apply for registration shall not acquire, or be deemed to have acquired, as against the Government, any interest in land as proprietor, landholder, manager or mortgagee, or be entitled to prefer any claim against the Government in respect of such interest, as long as he omits to apply for registration, but shall be subject to all the liabilities of a proprietor, landholder, manager or mortgagee so far as regards the payment of revenue and all other obligations to the Government.

No person bound to pay rent to unregistered proprietor, etc

59. (1) No person shall be bound to pay rent to any person claiming it as proprietor, landholder, manager or mortgagee in possession of an estate, unless the name of the claimant has been registered under this Chapter.

(2) No persons, being liable to pay rent to two or more such proprietors, landholders, managers or mortgagees, shall be bound to pay to any one such proprietor, landholder, manager or mortgagee more than the amount which bears the same proportion to the whole of the rent as the extent of the share in respect of which the proprietor, landholder, manager or mortgagee is registered bears to the entire estate.

Part C.—Miscellaneous.

Pub[…] in[…]

60. Subject to the prescribed conditions and to payment of the prescribed fees, all registers kept under this Chapter shall be open to public inspection,

to apply for extracts from registers.

and, subject as aforesaid, the Deputy Commissioner shall supply an extract from any such register to any person who may apply for the same.

Power of Deputy Commissioner to pay recorded proprietors, etc., money due to them in accordance with their registered interests.

61. Whenever any sum of money is payable (otherwise than under the Land Acquisition Act, 1870, [1]) by the Deputy Commissioner to two or more proprietors, landholders, managers or mortgagees in possession of an estate, the Deputy Commissioner may pay to any one or more recorded proprietors, landholders, managers or mortgagees thereof, respectively, such portions of the said sum as may be proportionate to the extent of the interest in respect of which each such proprietor, landholder, manager or mortgagee is registered, and the receipt of each such proprietor, landholder, manager or mortgagee shall afford full indemnity to the Deputy Commissioner in respect of any sum so paid. X of 1

Saving clause.

62. Nothing contained in this Chapter and nothing done in accordance therewith shall be deemed to—

(*a*) preclude any person from bringing a suit in the Civil Court for possession of, or for declaration of his right to, any immoveable property to which he may deem himself entitled; or

(*b*) render the entry of any land in any register under this Chapter as revenue-free an admission on the part of Government of the right of the person in whose name the land may be entered, or an admission of the validity of the title under which the said land is held revenue-free.

CHAPTER V.

Arrears and the mode of recovering them.

Liability for Revenue and Default.

Liability for land-revenue, etc.

63. Land-revenue payable in respect of any estate shall be due jointly and severally from all persons who have been in possession of the estate or any part of it during any portion of the agricultural year in respect of which that revenue is payable.

Liability for house-tax of families of cultivators.

64. When a tax is imposed on a family or house in respect of the cultivation of any land, the amount due for any year of assessment from the family or house shall be due jointly and severally from all males of the family or house who, at any time during the year, being then above the age of eighteen years, took any part in the cultivation of that land.

Procedure when co-proprietor of permanently-settled

65. (*1*) When there are several recorded proprietors of a permanently-settled estate, any one of them, whether he is entitled to a share of the estate

[1] Act X of 1870 has been repealed and re-enacted by Act I of 1894 (the Land Acquisition Act, 1894), and this reference should now be construed as a reference to the latter Act—*see* s. 2 (*3*) thereof, in Genl. Acts, Vol. IV.

or to particular lands comprised therein, may, if he desires to pay his share or portion of the revenue separately, submit a written application to that effect to the Deputy Commissioner, specifying his share of the estate or the particular lands therein to which he is entitled, and, when he claims particular lands, the portion of the revenue for which, as between him and his co-proprietors, he is liable (estate desires to pay separately.)

(2) The Deputy Commissioner shall then publish a notice requiring all persons who object to the application to appear within six weeks from the date of the notice and give in a written statement of their objections

(3) If, within the period specified in the notice, no objection is made by any recorded co-proprietor of the estate, the Deputy Commissioner shall open separate accounts for the applicant's share or lands and for the aggregate of the shares of lands of the other proprietors, and shall credit separately in those accounts all payments made by him and them respectively

(4) If any recorded co-proprietor of the estate objects that the applicant has no right to the share or lands claimed by him or that his interest in the estate is less or other than that claimed by him, or, if the application is in respect of particular lands, that the amount of revenue stated by the applicant to be payable on account of those lands is not the amount which is recognised among the co-proprietors as the revenue thereof, the Deputy Commissioner shall refer the parties to the Civil Court, and shall suspend proceedings until the objection is withdrawn or the question at issue is judicially determined

(5) The opening of separate accounts under this section shall not affect the joint and several liability imposed by section 63 except in so far as is by this Regulation expressly provided

66. Every sum payable under this Regulation, on account of land-revenue, shall fall due on such date, and shall be payable in such manner, in such instalments, at such place and to such person, as may be prescribed (Revenue when due, and where and to whom payable)

67. Land-revenue not paid on the date when it falls due shall be deemed to be an arrear, and every person liable for it shall be deemed to be a defaulter ("Arrear" and "defaulter" defined.)

Notice of Demand

[1]**68.** (1) When an arrear has accrued, an additional charge by way of penalty, not exceeding one rupee, may be levied (Penalty leviable on arrears and notice of demand)

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[1] This section was substituted for the original s 68 by the Assam Land and Revenue (Amendment) Regulation, 1905 (II of 1905), s 5, *post* It has been brought into force, by notification under s 1 (2) of that Regulation, in all areas in which the original s 68 was in force (*see* the "Local Extent" footnote to this Regulation *ante*), except the North Cachar Hills

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therein, and none of the processes for enforcing payment prescribed by this Chapter shall be issued against him unless he fails to pay the amount within the time so specified."

to apply for extracts from registers.

and, subject as aforesaid, the Deputy Commissioner shall supply an extract from any such register to any person who may apply for the same.

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Saving clause.

62. Nothing contained in this Chapter and nothing done in accordance therewith shall be deemed to—

(*a*) preclude any person from bringing a suit in the Civil Court for possession of, or for declaration of his right to, any immoveable property to which he may deem himself entitled; or

(*b*) render the entry of any land in any register under this Chapter as revenue-free an admission on the part of Government of the right of the person in whose name the land may be entered, or an admission of the validity of the title under which the said land is held revenue-free.

CHAPTER V.

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[1] Act X of 1870 has been repealed and re-enacted by Act I of 1894 (the Land Acquisition Act, 1894), and this reference should now be construed as a reference to the latter Act—*see* s. 2 (*3*) thereof, in Genl. Acts, Vol. IV.

or to particular lands comprised therein, may, if he desires to pay his share or portion of the revenue separately, submit a written application to that effect to the Deputy Commissioner, specifying his share of the estate or the particular lands therein to which he is entitled, and, when he claims particular lands, the portion of the revenue for which, as between him and his co proprietors, he is liable — estate desires to pay separately

(2) The Deputy Commissioner shall then publish a notice requiring all persons who object to the application to appear within six weeks from the date of the notice and give in a written statement of their objections

(3) If within the period specified in the notice, no objection is made by any recorded co-proprietor of the estate, the Deputy Commissioner shall open separate accounts for the applicant's share or lands and for the aggregate of the shares of lands of the other proprietors, and shall credit separately in those accounts all payments made by him and them respectively

(4) If any recorded co proprietor of the estate objects that the applicant has no right to the share or lands claimed by him or that his interest in the estate is less or other than that claimed by him, or, if the application is in respect of particular lands, that the amount of revenue stated by the applicant to be payable on account of those lands is not the amount which is recognised among the co proprietors as the revenue thereof, the Deputy Commissioner shall refer the parties to the Civil Court and shall suspend proceedings until the objection is withdrawn or the question at issue is judicially determined

(5) The opening of separate accounts under this section shall not affect the joint and several liability imposed by section 63 except in so far as is by this Regulation expressly provided

66. Every sum payable under this Regulation, on account of land revenue, shall fall due on such date, and shall be payable in such manner, in such instalments, at such place and to such person, as may be prescribed — Revenue when due, and where and to whom payable

67. Land-revenue not paid on the date when it falls due shall be deemed to be an arrear, and every person liable for it shall be deemed to be a defaulter — 'Arrear' and 'defaulter' defined

Notice of Demand

[1]**68.** (*1*) When an arrear has accrued, an additional charge by way of penalty, not exceeding one rupee, may be levied — Penalty leviable on arrears and notice of demand

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notice of demand calling on the defaulter to pay the amount within a time specified therein, and none of the processes for enforcing payment prescribed by this Chapter shall be issued against him unless he fails to pay the amount within the time so specified.

(2) If the arrear is not in respect of a permanently-settled estate, the prescribed officer may in his discretion, before employing any of the processes for enforcing payment prescribed by this Chapter, issue a notice of demand, calling on the defaulter to pay the amount within a time specified:

Provided that, in such classes of cases, not being cases in which an arrear has accrued in respect of a permanently-settled estate, as the Chief Commissioner may direct in this behalf, the prescribed officer shall not employ any such process for enforcing payment as aforesaid, until he has issued a notice of demand and the defaulter has failed to pay the arrear within the time specified in such notice.

Sale of Moveables.

Attachment and sale of moveables.

69. (*1*) The Deputy Commissioner may, for the recovery of an arrear, order the attachment and sale of so much of a defaulter's moveable property as will, as nearly as may be, defray the arrear.

(*2*) Every such attachment and sale shall be conducted according to the law for the time being in force for the attachment and sale of moveable property under a decree of a Civil Court.

(*3*) Nothing in this section shall authorise the attachment and sale of necessary wearing-apparel, implements of husbandry, tools of artisans, materials of houses and other buildings belonging to and occupied by agriculturists, or of such cattle or seed-grain as may be necessary to enable the defaulter to earn his livelihood as an agriculturist.

[1] *Attachment of Defaulting Estate.*

Attachment of estate, application of profits and duration of attachment.

[1] **69A.** (*1*) When an arrear has accrued in respect to a temporarily-settled estate, the Deputy Commissioner, with the previous sanction of the Commissioner, may attach the estate, and may take it under his own management or may let it in farm.

(*2*) During the continuance of such attachment, the settlement-holder shall be excluded from possession of the land attached, and the Deputy Commissioner or the person to whom it is let in farm by the Deputy Commissioner shall have all the rights of the settlement-holder to manage the estate, and to realise the rents and profits arising therefrom.

The surplus profits of the estate, after defraying the costs of attachment and of collection, shall be applied, first, to the payment of any revenue becoming due in respect of such estate during the attachment, and, next, to discharging the arrear for the recovery of which the attachment was made.

(*4*) The attachment shall continue until the arrear is paid or realised

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[1] S. 69A, *and the heading prefixed thereto, were inserted by the* Assam Land and Revenue (Amendment) Regulation, 1905 (II of 1905), s. 5 *post.* They have been brought into force, by notification under s. 1 (2) of that Regulation, in all areas in which Ch. V of Reg. I of 1886 is in force (*see* the "Local Extent" footnote *to this Regulation ante*), except the North Cachar *Hills*.

from the profits of the estate attached, or the Deputy Commissioner reinstates the settlement holder in possession

Provided that, without the sanction of the Chief Commissioner, no attachment shall continue for a longer period than five years

Sale of Defaulting Estate

70. When an arrear has accrued in respect of a permanently settled estate or of an estate in which the settlement holder has a permanent, heritable and transferable right of use and occupancy, the Deputy Commissioner may sell the estate by auction When estate may be sold.

Provided that —

(*1*) [1][except when the Chief Commissioner, by general order applicable to any local area or any class of cases or by special order otherwise directs] an estate which is not permanently settled shall not be sold unless the Deputy Commissioner is of opinion that the process provided for in section 69 is not sufficient for the recovery of the arrear

(*2*) if the arrear has accrued on a separate account opened under section 65, only the shares of lands comprised in that account shall in the first place be put up to sale, and, if the highest bid does not cover the arrear, the Deputy Commissioner shall stop the sale, and direct that the entire estate shall be put up for sale at a future date to be specified by him, and the entire estate shall be put up accordingly and sold,

(*3*) no property shall be sold under this section—

(*a*) for any arrear which may have become due in respect thereof while it was under the management of the Court of Wards, or was so circumstanced that the Court of Wards might have exercised jurisdiction over it under the law for the time being in force, or

(*b*) for any arrear which may have become due while it was under attachment by order of a revenue authority

71. Property sold under section 70 shall be sold free of all incumbrances previously created thereon by any other person than the purchaser Estate to be sold free of incumbrances

Provided that—

first, nothing in this section shall apply,—

(*a*) in a permanently settled estate,—

(*1*) to tenures which have been held from the time of the Permanent Settlement, or

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[1] These words in square brackets in s 70 were inserted by the Assam Land and Revenue Regulation 1889 (II of 1889) s 3 *post*

(2) to tenures held immediately of the proprietors which have been created since the Permanent Settlement, and which have been registered under Chapter IV;

(*b*) in any estate, to tenures created *boná fide* and at a rent not less than the full amount of the revenue fairly payable in respect of the land:

secondly, nothing in this section shall entitle a purchaser to eject any tenant having a right of occupancy under the Rent Law for the time being in force, or to enhance the rent of any such tenant otherwise than in the manner prescribed by that law:

thirdly, nothing in this section shall apply when the purchaser is a recorded or unrecorded proprietor or settlement-holder of the estate.

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[1]72. (*1*) If the Deputy Commissioner proceeds to sell any property under section 70, he shall prepare a statement in manner prescribed, specifying the property which will be sold, the time and place of sale, the revenue assessed on the property, and any other particulars which he may think necessary.

(2) A list of all estates for which a statement has been prepared under sub-section (*1*) shall be published in manner prescribed, and a copy of the statement relating to every such estate shall be open to inspection by the public, free of charge, in manner prescribed.

(3) If the revenue of any estate for which a statement has been prepared under sub-section (*1*) exceeds five hundred rupees, a copy of the statement shall be published in the local official Gazette.

(4) When the arrear has accrued on an estate not being a permanently-settled estate in the district of Sylhet, a copy of the statement prepared under sub-section (*1*) shall be served on the defaulter, or, if he cannot be found, posted on the estate in manner prescribed.

(5) When the arrear has accrued on a permanently-settled estate in the district of Sylhet, a copy of the statement shall be posted on, or in the vicinity of, the estate in manner prescribed; and, if any proprietor of the estate has registered his name and address in manner prescribed, a copy of the notice shall be despatched to him by post in a registered cover to that address.

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[1] This section was substituted for the original s. 72 by the Assam Land and Revenue Regulation, 1889 (II of 1889), s. 4, *post*. The original section ran thus:—

"72. (*1*) If the Deputy Commissioner proceeds to sell any property under section 70, he shall issue a proclamation in the prescribed manner specifying the property which will be sold, the time and place of sale, the revenue assessed on the property and any other particulars he may think necessary.

Proclamation of sale.

(2) A copy of every proclamation issued under this section shall be served on the defaulter, or, if he cannot be found, posted on the estate in manner prescribed.

(3) If the revenue of the estate exceeds five hundred rupees, the proclamation shall be published in the local official Gazette."

(6) In making rules prescribing the manner of registering names and addresses for the purposes of sub-section (5), the Chief Commissioner may impose a fee for such registration and may fix a period after which such registration will, unless renewed, become void

73. Whenever any property is notified for sale under section 72, the Deputy Commissioner may publish a proclamation forbidding the tenants of the defaulter to pay to the defaulter any rent which has fallen due since the arrear accrued, on pain of not being entitled to credit in their accounts with the purchaser for any sum so paid

Proclamation to tenants of defaulter

74. (1) Every sale under this Chapter shall be made either by the Deputy Commissioner in person, or by an officer specially empowered by the Chief Commissioner in this behalf

Sale by whom and when to be made

(2) No such sale shall take place on a Sunday or other authorised holiday, or until after the expiration of at least thirty days from the date on which the[1] [list of estates] has been published under section 72

(3) The Deputy Commissioner may, from time to time, postpone the sale, and every postponement of sale of a permanently-settled estate shall be reported to the Commissioner [or (where there is no Commissioner) to the Chief Commissioner]

75. If the defaulter pays the arrear of revenue in respect of which the property is to be sold,[2] [and the fee (if any) prescribed in this behalf], at any time before the day fixed for the sale, the sale shall be stayed

When sale may be *stayed*

76. Where the arrear has accrued on a separate account opened under section 65, and a sale of the entire estate has been directed under section 70, proviso (2), any proprietor of the estate who is not comprised in the separate account may, within ten days from the time at which the direction is given, purchase the share or lands comprised in the separate account by paying the amount of the arrear, and the provisions of section 71 shall, notwithstanding the third proviso thereto, apply to such a purchase

Right of co-proprietors to purchase share or land sold on separate account

77. The person declared to be the purchaser at an auction-sale under the foregoing sections shall be required to deposit immediately twenty-five per centum on the amount of his bid, and in default of such deposit the property shall forthwith be again put up and sold

Deposit by purchaser.

78. (1) The full amount of purchase-money shall be paid by the purchaser before sunset of the fifteenth day from that on which the auction-sale took place, or, if that day is a Sunday or other authorised holiday, then on the next following office day

Payment of balance of purchase money, and consequences of default

(2) In default of payment within that period, the deposit, after defraying thereout the expenses of the sale, shall be forfeited to the Government, the property shall be re-sold, and the defaulting purchaser shall forfeit all

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[1] These words in square brackets in s 74 (2) were substituted for the words "proclamation of sale" by the Assam Land and Revenue Regulation, 1889 (II of 1889), s 5, *post*

[2] These words in square brackets in s 75 were inserted by the Assam Land and Revenue Regulation 1889 (II of 1889), s 6, *post*.

claim to, the property, or to any part of the sum for which it may be subsequently sold:

Provided that no re-sale under this section shall be made unless and until a fresh notice has been issued in the manner prescribed for the original sale.

(*3*) If the proceeds of the sale which is eventually made are less than the price bid by the defaulting purchaser, the difference shall be leviable from him under the provisions of this Chapter as if it were an arrear.

Application to set aside sale.

79. At any time within sixty days from the date of the sale, application in writing may be made to the Commissioner or (where there is no Commissioner) to the Chief Commissioner, to set aside the sale on the ground of some material irregularity or mistake in publishing or conducting it:

Provided that no sale shall be set aside on this ground, unless the applicant proves to the satisfaction of the Commissioner or the Chief Commissioner (as the case may be) that he has sustained substantial injury by reason of the irregularity or mistake complained of:

[1] [Provided also that the non-delivery or mis-delivery of a registered cover despatched under section 72, sub-section (*5*), shall not, for the purposes of this section, be deemed an irregularity or mistake in publishing or conducting the sale.]

Sales when final.

80. (*1*) A sale on which the purchase-money has been paid as directed in section 78, and against which no application under section 79 has been preferred, shall, subject to the provisions of sections 81 and 82, be final at noon of the sixtieth day from the day of sale, reckoning the said day of sale as the first of the sixty days.

(*2*) A sale against which such an application has been preferred and has been dismissed by the [Chief Commissioner or] Commissioner shall, subject as aforesaid, be final from the date of the dismissal, if more than sixty days from the day of sale, or, if less, then at noon of the sixtieth day as above provided.

Annulment of sale on ground of hardship.

[2] **81.** The Chief Commissioner may, on application made to him at any time within one year of a sale becoming final under section 80, set the sale aside on the ground of hardship or injustice.

Annulment of sale by Civil Court.

82. (*1*) A sale for arrears of revenue shall not be annulled by a Civil Court except on the ground of its having been made contrary to the provisions of this Regulation, and on proof that the plaintiff has sustained substantial injury by reason of the neglect of those provisions.

(*2*) A suit to annul such a sale shall not be entertained upon any ground unless that ground has been specified in an application made to the Commis-

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[1] This proviso was added to s. 79 by the Assam Land and Revenue Regulation, 1889 (II of 1889), s. 7, *post.*

[2] This section was substituted for the original s. 81 by the Assam Land and Revenue Regulation, 1889 (II of 1889), s. 8, *post.* The original s. 81 ran thus:—

Annulment of sale on ground of hardship, etc.

"81. The Chief Commissioner may at any time, within one year of a sale becoming final under section 80, set it aside on the ground of hardship or injustice."

sioner [or Chief Commissioner] under section 79, or unless it is instituted within one year from the date of the sale becoming final under section 80

(3) No person shall be entitled to contest the legality of a sale after having received any portion of the purchase-money

83. Nothing in the foregoing sections shall be construed to debar any person, considering himself wronged by any act or omission connected with a sale under this Regulation, from his remedy in a suit for damages against the person by whose act or omission he considers himself to have been wronged.

Saving of right to sue for damages

84. Whenever the sale of any estate is set aside, the purchaser shall be entitled to receive back from the Government his purchase money, except the surplus thereof (if any) paid away under the last clause of section 87, with or without interest, at such rate, not exceeding six per centum per annum, as the Chief Commissioner thinks fit

Repayment of purchase money when sale is set aside

85. (1) After a sale has become final, the Deputy Commissioner shall put the purchaser into possession of the property sold and shall grant him a certificate to the effect that he has purchased the property to which the certificate refers

On sale becoming final, purchaser to be put in possession.

(2) The certificate shall bear the date on which the sale became final under section 80, and the title to the property sold shall vest in the purchaser from the date of the certificate, and not before

[[1] (3) A certificate granted to a purchaser under this section shall be conclusive evidence in his favour, and in favour of any person claiming under him, that every publication, service, posting or despatch of any statement, list, notice or letter required by this Regulation, or the rules made under it, to be published, served, posted or despatched has been duly effected, and the title of any person who has obtained any such certificate, or of any person claiming under him, shall not be impeached or affected under section 82 or otherwise by reason of any omission, informality or irregularity as regards the publication, serving, posting or despatching of any statement, list, notice or letter in the proceedings under which the sale was held at which the property was purchased

Provided that nothing in this sub section shall affect the power conferred on the Chief Commissioner by section 81]

86. The name of the purchaser to be entered in the certificate shall be that of the person declared at the time of sale to be the actual purchaser, and any suit brought in a Civil Court against the certified purchaser on the ground that the purchase was made on behalf of another person not the certified purchaser, though by agreement the name of the certified purchaser was used, shall be dismissed with costs

Bar of suit against certified purchaser

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[1] This sub section (3) and proviso were added by the Assam Land and Revenue Regulation, 1889 (II of 1889), s 9, *post*

Application of proceeds of sale.

87. When a sale has become final under section 80, the proceeds of the sale shall be applied—

first, to defraying the expenses of the sale;

secondly, to the payment of the arrear due;

thirdly, to the payment of any other arrear due by the same defaulter;

and the surplus, if any, shall be paid to the person whose property has been sold, and shall not, except under an order of a Civil Court, be payable to any creditor of that person.

Liability of purchaser for revenue.

88. The person named in the certificate of title as purchaser shall be liable for all instalments of land-revenue becoming due in respect of the property purchased subsequently to the accrual of the arrear for the recovery of which the property was sold.

Right of pre-emption.

89. When an estate held by settlement-holders situate in any local area to which the Chief Commissioner may, by notification, apply this section is sold under section 70, any recorded settlement-holder of the estate, not being himself in arrear with regard to the revenue which, as between him and the other settlement-holders, is payable by him, may, if the lot has been knocked down to a stranger, claim to take the property at the sum last bid:

Provided that the claim is made on the day of sale, and before the officer conducting the sale has left the office for the day, and that the claimant fulfils all the other conditions of the sale.

Annulment of Settlement.

Annulment of settlement.

90. (*1*) Where the estate in respect of which the arrear has accrued is not a permanently-settled estate, and is situate in any local area to which the Chief Commissioner may, by notification, apply this section, if the process provided for in section 69 is not sufficient for the recovery of the arrear, the Deputy Commissioner may, by proclamation published in the prescribed manner, annul the existing settlement of the estate and relinquish the claim of the Government to the arrear:

Provided that—

(*a*) if the arrear is in respect of an estate in which the settlement-holder has a permanent, heritable and transferable right of use and occupancy, the Deputy Commissioner shall not, unless the Chief Commissioner otherwise, by rule, directs, annul the settlement without the sanction of the Chief Commissioner;

(*b*) this section shall not apply to the recovery of any arrear which may have accrued on an estate—

(*1*) while it was under the management of the Court of Wards or was so circumstanced that the Court of Wards might have exercised jurisdiction over it under the law for the time being in force; or

(*2*) while it was under attachment by order of a revenue-authority.

(2) Upon the publication of a proclamation under this section, all incumbrances, other than the tenures mentioned in section 71, proviso *first*, clause (*b*), affecting the estate, or any portion thereof, shall become void, and the Deputy Commissioner [1][may eject the settlement holder from possession and] may enter upon and manage the estate and receive all rents and profits accruing therefrom, or may dispose of the estate in accordance with the rules issued by the Chief Commissioner[1] under section 12

Sale of Immoveable Property other than the Defaulting Estate

91. (*1*) If an arrear cannot be recovered by any of the foregoing processes, and the defaulter is in possession of any immoveable property, other than the estate in respect of which the arrear has accrued, the Deputy Commissioner may proceed against any of that other property situated within his district according to the law for the time being in force for the attachment and sale of immoveable property under the decree of a Civil Court

Power to proceed against defaulter's other immoveable property

(2) If there is no such other property in his district, the Deputy Commissioner may make under his hand a certificate, in the prescribed form, of the amount of the arrear remaining unpaid, and may forward the same to the Deputy Commissioner of any other district in which this Regulation is in force, and within the limits of which the defaulter is possessed of any such property, and that Deputy Commissioner shall thereupon proceed to realise the arrear as if it were an arrear accruing in his own district

Supplemental

92. The costs of serving any notice, proclamation or other process under this Chapter shall be recoverable as part of the arrear in respect of which such process was issued

Recovery of costs

93. Arrears of land-revenue due at the commencement of this Regulation shall be recoverable as nearly as may be according to the provisions of this Chapter

Recovery of existing arrears

94. The provisions of this Chapter shall, so far as may be, apply to the recovery of any sum of money realisable under any enactment for the time being in force as if it were an arrear of land-revenue

Recovery of other money

95. The Chief Commissioner may, from time to time, make rules, not inconsistent with this Regulation, to provide for the proper performance of all things to be done, and for the regulation of all proceedings to be taken, under this Chapter

Power of Local Government to make rules

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CHAPTER VI.

PARTITION AND UNION OF REVENUE-PAYING ESTATES.

"Perfect partition" and "imperfect partition" defined.

96. Partition is either perfect or imperfect. "Perfect partition" means the division of a revenue-paying estate into two or more such estates, each separately liable for the revenue assessed thereon. "Imperfect partition" means the division of a revenue-paying estate into two or more portions jointly liable for the revenue assessed on the entire estate.

Persons entitled to partition.

97. (*1*) Every recorded proprietor of a permanently-settled estate, and every recorded landholder of a temporarily-settled estate, may, if he is in actual possession of the interest in respect of which he desires partition, claim perfect or imperfect partition of the estate:

Provided that—

(*a*) no person shall be entitled to apply for perfect partition if the result of such partition would be to form a separate estate, liable for an annual amount of revenue less than five rupees;

(*b*) no person shall be entitled to apply for imperfect partition of an estate unless with the consent of recorded co-sharers holding in the aggregate more than one-half of the estate;

(*c*) a person may claim partition only in so far as the partition can be effected in accordance with the provisions of this Chapter.

(*2*) When two or more proprietors or landholders would be entitled under sub-section (*1*) to partition in respect of their respective interests in the estates, they may jointly claim partition in respect of the aggregate of their interests.

Application for perfect partition.

98. Every application for perfect partition shall be in writing, shall be presented to the Deputy Commissioner, and shall specify the area of the estate, the applicant's interest therein and the names of the other proprietors or landholders.

Notification of application.

99. (*1*) The Deputy Commissioner shall, if the application is in order and not open to objection on the face of it, publish a proclamation at his office, and at some conspicuous place on the estate to which the application relates; and shall serve a notice on all such of the recorded proprietors or landholders of the estate as have not joined in the application, requiring any of them in possession who may object to the partition to appear before him and state their objections, on a day to be specified in the proclamation and notice, not being less than thirty or more than sixty days from the date on which the proclamation is issued.

(*2*) Where, from any cause, notice cannot be personally served on any proprietor or landholder, the proclamation shall be deemed sufficient notice under this section.

Objection on question of title.

100. (*1*) If an objection preferred as required under section 99 raises any question of title which has not been already determined by a Court of competent jurisdiction, the Deputy Commissioner shall stay his proceedings for such time as, in his opinion, is sufficient to admit of a suit being instituted in the Civil Court to try the objection.

(2) A Deputy Commissioner staying his proceedings under this section shall make an order requiring the objector, or, if for any reason he deems it more equitable, the applicant, to institute such a suit within the time fixed, and, in the event of such a suit not being instituted within that time, may, in his discretion, disallow the objection, or dismiss the application, as the case may be

(3) On a suit being instituted to try any objection under this section, the Deputy Commissioner shall, with reference to the objection, be guided by the orders passed by the Civil Court in the suit

101. If any objection, other than an objection of the nature referred to in section 100, is preferred as aforesaid to the partition, the Deputy Commissioner shall dispose of it himself, unless for any reason he thinks fit to require that it be submitted to a Civil Court for adjudication, in which event the provisions of section 100 shall apply to the objection

Other objections how dealt with

102. When the period specified under section 99 has expired and the objections (if any) made have been disposed of by the Deputy Commissioner or by the Civil Court, as the case may be, the Deputy Commissioner shall, if no such objection has been allowed, proceed to make the partition

Provided that the Deputy Commissioner may, in his discretion in order to admit of the institution of an appeal from any decision regarding an objection, or for any other reason he deems sufficient, further postpone his proceedings

Proceedings of Deputy Commissioner after objections have been disposed of

103. The Deputy Commissioner may give the parties the option of making the partition themselves or of appointing arbitrators for the purpose, or he may make the partition himself

Mode of partition.

104. In making partitions the Deputy Commissioner and any person appointed by him shall have the same powers for entry on the land under partition, for marking out the boundaries, surveying and other purposes, as have been conferred on Survey officers by or under this Regulation

Power to enter on land for purpose of partition

105. Where there are no lands held in common, the lands held in severalty by the applicant for partition shall be declared a separate estate, and shall be separately assessed to the Government revenue

Partition of lands held only in severalty

106. (1) Where some of the lands are held in common, the Deputy Commissioner shall allot to the applicant for partition his share of those lands in accordance with village custom, if any such exists If no such custom exists, the Deputy Commissioner shall make such division as may secure to the applicant his fair portion of the common lands

Partition of lands some of which are held in common

(2) The portion of the common lands falling by the partition to the share of the applicant shall be added to the land held by him in severalty, and the aggregate thus formed shall be declared a separate estate, and shall be separately assessed to the Government revenue

107. Where all the lands are held in common, the Deputy Commissioner shall make such a partition as may secure to the applicant his fair share of the estate, and the land allotted to him shall be declared a separate estate, and shall be separately assessed to the Government revenue

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Provided that—

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(3) On a suit being instituted to try any objection under this section, the Deputy Commissioner shall, with reference to the objection, be guided by the orders passed by the Civil Court in the suit

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Other objections how dealt with

102. When the period specified under section 99 has expired, and the objections (if any) made have been disposed of by the Deputy Commissioner or by the Civil Court, as the case may be, the Deputy Commissioner shall, if no such objection has been allowed, proceed to make the partition

Provided that the Deputy Commissioner may, in his discretion in order to admit of the institution of an appeal from any decision regarding an objection, or for any other reason he deems sufficient, further postpone his proceedings

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107. Where all the lands are held in common, the Deputy Commissioner shall make such a partition as may secure to the applicant his fair share of the estate, and the land allotted to him shall be declared a separate estate, and shall be separately assessed to the Government revenue

Partition where all lands held in common

Transfers to be effectuated in making partition.

108. In making a partition under section 105 or section 106, the Deputy Commissioner shall give effect to any transfer of lands held in severalty, forming part of the estate, agreed to by the parties and made before the declaration of the partition.

Estates to be compact.

109. In all cases each estate shall be made as compact as possible:

Provided that, except with the sanction of the Commissioner, [or, when there is no Commissioner, with the sanction of the Chief Commissioner,] no partition shall be disallowed solely on the ground of incompactness.

Rule when building of one sharer is included in estate assigned to another.

110. (*1*) If, in making a partition, it is necessary to include in the estate assigned to one sharer the land occupied by a dwelling-house or other building in the possession of another co-sharer, that other co-sharer shall be allowed to retain it, with any buildings thereon, on condition of his paying a reasonable ground-rent for it to the sharer into whose portion it may fall.

(*2*) The limits of the land, and the rent to be paid for it, shall be fixed by the Deputy Commissioner.

Rules as to tanks, wells, water-courses and embankments.

111. (*1*) Tanks, wells, water-courses and embankments shall be considered as attached to the land for the benefit of which they were originally made.

(*2*) Where, from the extent, situation or construction of any such work, it is found necessary that it should continue the joint property of the proprietors or landholders of two or more of the estates into which the estate is divided, the Deputy Commissioner shall determine the extent to which the proprietors or landholders of each estate make use of the work, and the proportion of the charges for repairs to be borne by them respectively, and the manner in which the profits, if any, derived from the work, are to be divided.

Rules as to places of worship and burial-grounds.

112. (*1*) Places of worship and burial-grounds, held in common previous to the partition of an estate, shall continue to be so held, unless the parties otherwise agree among themselves.

(*2*) In such cases they shall state in writing the agreement into which they have entered, and their statement shall be filed with the record.

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113. (*1*) The amount of revenue to be paid by each portion of the divided estate shall be determined by the Deputy Commissioner:

Provided that the aggregate revenue of the new estates shall not exceed the revenue assessed on the estate immediately before partition.

(*2*) The proprietors or landholders of each of the new estates shall be jointly and severally liable for the portion of the revenue assessed on their estate, whether new acceptances are taken from them or not.

Costs.

114. (*1*) The Chief Commissioner shall make rules for determining the costs of partitions under this Act, the mode in which those costs are to be apportioned, and the parties by whom and the stage of the proceedings at which they are to be paid:

Provided that the cost of surveying an estate, when a survey is necessary for the purpose of partition, shall be paid, rateably, by all the proprietors or landholders of the estate according to their interests therein.

(2) If the costs to be paid by the applicant for partition are not paid within a time to be fixed by the Deputy Commissioner subject to the rules made under this section, the case may be struck off the file.

Power to stay partition.

115. If at any stage of the proceedings there appears to be any reason for stopping the partition, the Deputy Commissioner may, of his own motion stay the partition and order the proceedings to be quashed.

Proclamation of partition.

116. On completion of a partition the Deputy Commissioner shall publish a proclamation of the fact at his office and at some conspicuous place on each of the new estates or in the estate of which they originally formed part,

and the partition shall take effect from the beginning of the agricultural year next after the date of the proclamation.

Procedure to be followed by Deputy Commissioner in giving effect to the partition.

[1] **116A.** As soon as may be after the date on which the partition takes effect under the last preceding section, the Deputy Commissioner shall deliver to the several sharers possession of the separate lands allotted to them, and for this purpose may, if necessary, summarily eject any proprietor or landholder who may refuse to vacate the same.

Appeal from decision of Deputy Commissioner.

117. An appeal against the decision of the Deputy Commissioner making a partition shall lie to the Commissioner of the Division [or where there [illegible] no Commissioner, to the Chief Commissioner,] within one year from the date on which the partition takes effect.

Power to order new allotment of revenue on proof of fraud or error in first distribution.

118. Where the revenue is fraudulently or erroneously distributed at the time of the partition, the Chief Commissioner may within twelve years from the time of discovery of the fraud or error order a new allotment of the revenue upon the several estates into which the estate has been divided on an estimate of the assets of each estate at the time of the partition, to be made conformably to the best evidence and information procurable respecting the same.

Making of imperfect partition.

119. Imperfect partition shall be carried out according to the provisions of the preceding sections, so far as they are applicable.

Persons entitled to union.

120. If a recorded proprietor or landholder is in possession of two or more revenue paying estates, he may, subject to the rules framed under section 121, claim to have those estates united, and to hold them as a single estate.

Power to make rules.

121. The Chief Commissioner may make rules, not being inconsistent with this Regulation, as to the procedure and principles to be observed in dealing with applications for, and in carrying out, the partition and union of estates, and in assessing the land revenue on estates divided.

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[1] S. 116A was inserted by the Assam Land and Revenue (Amendment) Regulation, 1905 (II of 1905) s. 8 *post*. It has been brought into force by notification under s. 1 (2) of that Regulation in all areas in which Ch. VI of Reg. 1 of 1886 is in force (*see* the "Local Extent" footnote to this Regulation *ante*).

Transfers to be effectuated in making partition.

108. In making a partition under section 105 or section 106, the Deputy Commissioner shall give effect to any transfer of lands held in severalty, forming part of the estate, agreed to by the parties and made before the declaration of the partition.

Estates to be compact.

109. In all cases each estate shall be made as compact as possible:

Provided that, except with the sanction of the Commissioner, [or, when there is no Commissioner, with the sanction of the Chief Commissioner,] no partition shall be disallowed solely on the ground of incompactness.

Rule when building of one sharer is included in estate assigned to another.

110. (*1*) If, in making a partition, it is necessary to include in the estate assigned to one sharer the land occupied by a dwelling-house or other building in the possession of another co-sharer, that other co-sharer shall be allowed to retain it, with any buildings thereon, on condition of his paying a reasonable ground-rent for it to the sharer into whose portion it may fall.

(*2*) The limits of the land, and the rent to be paid for it, shall be fixed by the Deputy Commissioner.

Rules as to tanks, wells, water-courses and embankments.

111. (*1*) Tanks, wells, water-courses and embankments shall be considered as attached to the land for the benefit of which they were originally made.

(*2*) Where, from the extent, situation or construction of any such work, it is found necessary that it should continue the joint property of the proprietors or landholders of two or more of the estates into which the estate is divided, the Deputy Commissioner shall determine the extent to which the proprietors or landholders of each estate make use of the work, and the proportion of the charges for repairs to be borne by them respectively, and the manner in which the profits, if any, derived from the work, are to be divided.

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Costs.

114. (*1*) The Chief Commissioner shall make rules for determining the costs of partitions under this Act, the mode in which those costs are to be apportioned, and the parties by whom and the stage of the proceedings at which they are to be paid:

Provided that the cost of surveying an estate, when a survey is necessary for the purpose of partition, shall be paid, rateably, by all the proprietors or landholders of the estate according to their interests therein.

(2) If the costs to be paid by the applicant for partition are not paid within a time to be fixed by the Deputy Commissioner subject to the rules made under this section, the case may be struck off the file

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116. On completion of a partition the Deputy Commissioner shall publish a proclamation of the fact at his office and at some conspicuous place on each of the new estates or in the estate of which they originally formed part

and the partition shall take effect from the beginning of the agricultural year next after the date of the proclamation

Procedure to be followed by Deputy Commissioner in giving effect to the partition

[1] **116A.** As soon as may be after the date on which the partition takes effect under the last preceding section, the Deputy Commissioner shall deliver to the several sharers possession of the separate lands allotted to them, and for this purpose may, if necessary, summarily eject any proprietor or landholder who may refuse to vacate the same

Appeal from decision of Deputy Commissioner

117. An appeal against the decision of the Deputy Commissioner making a partition shall lie to the Commissioner of the Division [or, where there is no Commissioner, to the Chief Commissioner] within one year from the date on which the partition takes effect

Power to order new allotment of revenue on proof of fraud or error in first distribution

118. Where the revenue is fraudulently or erroneously distributed at the time of the partition, the Chief Commissioner may, within twelve years from the time of discovery of the fraud or error, order a new allotment of the revenue upon the several estates into which the estate has been divided on an estimate of the assets of each estate at the time of the partition, to be made conformably to the best evidence and information procurable respecting the same

Making of imperfect partition

119. Imperfect partition shall be carried out according to the provisions of the preceding sections, so far as they are applicable

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120. If a recorded proprietor or landholder is in possession of two or more revenue paying estates, he may, subject to the rules framed under section 121, claim to have those estates united, and to hold them as a single estate

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121. The Chief Commissioner may make rules, not being inconsistent with this Regulation, as to the procedure and principles to be observed in dealing with applications for, and in carrying out, the partition and union of estates, and in assessing the land revenue on estates divided

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[1] S 116A was inserted [illegible] 1905 (II of 1905), s [illegible] *post* It [illegible] of that Regulation, in all areas in [illegible] extent ' footnote to this Regulation *ante*)

CHAPTER VII.

POWERS OF OFFICERS.

Part A.—Revenue-officers.

Local Government.

122. The Chief Commissioner shall, subject to the control of the Governor General in Council, be the chief controlling authority.

Ex-officio Revenue-officers.

123. Every Commissioner of a Division, Deputy Commissioner, Assistant Commissioner and Extra-Assistant Commissioner shall be a Revenue-officer for the purposes of this Regulation.

Appointment of other Revenue-officers.

124. Subject to the control of the Governor General in Council, the Chief Commissioner may, for the purposes of this Regulation,—

(*a*) appoint to each district, in addition to the officers mentioned in section 123, as many other Revenue-officers as he thinks fit; and

(*b*) suspend or remove any officer appointed under this section.

Sub-divisional Officer.

125. (*1*) The Chief Commissioner may, for the purposes of this Regulation,—

(*a*) divide any district into sub-divisions, or make any portion of a district a sub-division, and may alter the limits of a sub-division; and

(*b*) place any Assistant Commissioner or Extra-Assistant Commissioner in charge of one or more sub-divisions of a district, and at any time remove him therefrom.

(*2*) An Assistant Commissioner or Extra-Assistant Commissioner in charge of a sub-division shall be called the Sub-divisional Officer.

Powers of Sub-divisional Officers.

126. (*1*) A Sub-divisional Officer shall, in addition to any other powers conferred on him by or under this Regulation, have the following powers of a Deputy Commissioner, namely:—

(*a*) power to dispose of cases of gain by alluvion or by dereliction of a river, and loss by diluvion, under section 34;

(*b*) power to inquire into and report on revenue-free holdings, and to assess revenue on resumed lands, under Chapter III, Part E;

(*c*) the power conferred by sections 50 to 58 (both inclusive) in respect of registration;

(*d*) powers to attach and sell moveable property belonging to defaulters under Chapter V; and

(*e*) subject to the confirmation of the Deputy Commissioner, power to receive applications and do all that is necessary for effecting partition and union of estates under Chapter VI.

(*2*) The Chief Commissioner may confer on any Sub-divisional Officer all or any of the other powers of a Deputy Commissioner under this Regulation.

Power to invest Assistant Commissioners, etc.,

127. The Chief Commissioner may confer upon Assistant Commissioners and Extra-Assistant Commissioners not in charge of Sub-divisions of districts all or any of the powers conferred by or under this Regulation on Sub-divi-

sional Officers in such cases or classes of cases as the Deputy Commissioner of the district may, from time to time, refer to them for disposal

not in charge of sub-divisions, with special powers

128. (*1*) All Revenue-officers in a district shall be subordinate to the Deputy Commissioner, and shall exercise all powers conferred on them by or under this Regulation subject to his control.

Subordination of Revenue officers

(*2*) Subject to the general control of the Deputy Commissioner, all Revenue officers, other than the Sub divisional officer, in a sub division of a district shall, unless the Chief Commissioner otherwise directs, be subordinate to the Sub-divisional Officer, and shall exercise all powers conferred on them by or under this Regulation subject to his control

(*3*) Subject to the general control of the Chief Commissioner, all Revenue-officers in a district which is included in a Commissioner's division shall be subordinate to the Commissioner, and shall exercise all powers conferred on them by or under this Regulation subject to his control

129. (*1*) Subject to any rules which the Chief Commissioner may make in this behalf, a Deputy Commissioner or Sub divisional officer may refer any case to any Revenue-officer subordinate to him for investigation and report, or, if that officer has power to dispose of the case, for disposal

Power to distribute work.

(*2*) Subject as aforesaid, a Deputy Commissioner may direct that any Revenue officer subordinate to him shall, without such reference, deal with any case or class of cases arising within any specified area, and either investigate and report on the case or class of cases, or, if he has power, dispose of it himself

(*3*) A subordinate Revenue officer shall submit his report on any case referred to him under this section for report to the officer referring it, or otherwise as may be directed in the order of reference, and the officer receiving the report may, if he has power to dispose of the case, dispose of the same, or may return it for further investigation to the officer submitting the report, or may hold the investigation himself

130. The Chief Commissioner or a Commissioner, Deputy Commissioner, or Sub divisional Officer may withdraw any case pending before any Revenue-officer subordinate to him, and either dispose of it himself, or refer it for disposal to any other Revenue-officer subordinate to him and having power to dispose of the same

Power of superior Revenue authorities to withdraw and transfer cases

131. Whenever any Revenue-officer who has been invested with any powers under this Regulation in any district or sub-division is transferred to another district or sub division, he shall, unless the Chief Commissioner otherwise directs, be held to be invested with the same powers in the district or sub division to which he is so transferred

Powers of officers transferred to another district

132. When a Deputy Commissioner dies, or is disabled from performing his duties, such officer as the Chief Commissioner may by rule direct shall take executive charge of his district, and shall be deemed to be a Deputy Commissioner under this Regulation, until a successor to the Deputy Commis-

Provisions for discharge of duties of Deputy Commissioner dying or

being disabled.

sioner so dying or disabled is appointed, and that successor takes charge of his office, or until the person so disabled resumes charge of his office.

Part B.—Settlement and Survey Officers.

Appointment of Settlement-officers.

133. (*1*) The Chief Commissioner may appoint a Settlement-officer to be in charge of the settlement of any local area or class of estates, and as many Assistant Settlement-officers as he thinks fit; and all Assistant Settlement-officers so appointed shall be subordinate to the Settlement-officer.

(*2*) The Chief Commissioner may suspend or remove any officer appointed under this section.

Appointment of Survey-officers.

134. (*1*) The Chief Commissioner may appoint a Survey-officer to be in charge of the survey of any local area or class of estates, and as many Assistant Survey-officers as he thinks fit; and all Assistant Survey-officers so appointed shall be subordinate to the Survey-officer.

(*2*) The Chief Commissioner may suspend or remove any officer appointed under this section.

Powers of Settlement-officers.

135. A Settlement-officer shall, in addition to any other powers conferred on him by or under this Regulation, have in the local area or class of estates under settlement—

(*a*) all the powers conferred by Chapter III, Part E, on a Deputy Commissioner; and,

(*b*) when a survey does not form part of the settlement, all the powers conferred by Chapter III, Part B, on a Survey-officer.

Powers of Assistant Settlement-officers and Assistant Survey-officers.

136. An Assistant Settlement-officer and Assistant Survey-officer shall have all the powers conferred by this Regulation on a Settlement-officer and Survey-officer, respectively, subject to such restrictions as the Settlement-officer or Survey officer may, from time to time, impose:

Provided that no Assistant Settlement-officer shall, unless specially empowered by the Chief Commissioner have power—

(*a*) to frame proposals for assessment under section 30;

(*b*) to exclude persons under sections 35 and 36 for refusal to accept settlement; or

(*c*) to assess land which the Chief Commissioner has, under section 45, sub-section (*2*), declared liable to assessment.

Investing of Settlement-officers with special powers.

137. The Chief Commissioner may invest any Settlement-officer, Survey-officer, Assistant Settlement-officer or Assistant Survey-officer with all or any of the powers of a Deputy Commissioner under this Regulation, within such limits, and with such restrictions, and for such period, as he thinks fit.

Exercise of powers of a Settlement-officer or Survey-officer by other officers.

138. (*1*) At any time during the currency of a settlement the Chief Commissioner may invest any officer with all or any of the powers of a Settlement-officer or Survey-officer under this Regulation, within such limits, and with such restrictions, and for such period, as he thinks fit.

(2) If no Settlement-officer or Survey-officer is appointed, and no officer is invested with the powers of a Settlement-officer or Survey-officer under sub-section (1), the Deputy Commissioner and Sub-divisional Officer (if any) shall have all the powers conferred by this Regulation on a Settlement-officer or Survey-officer, as the case may be

Part C—Mode of conferring and withdrawing Powers

139. (1) In conferring powers under this Regulation, the Chief Commissioner may, subject to such rules as the Governor General in Council may make in this behalf, empower persons by name or classes of officials generally by their official titles, and may vary or cancel any order conferring such powers — Conferring and withdrawing of powers

(2) The Chief Commissioner may withdraw from any officer the powers conferred on him by this Regulation

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CHAPTER VIII

Procedure

140. Subject to the orders of the Chief Commissioner, — Place for holding Court

(a) a Commissioner of a division may hold his Court at any place within his division,

(b) a Deputy Commissioner, an Assistant Commissioner or Extra-Assistant Commissioner (whether in charge or not of a sub division of a district), a Settlement-officer, an Assistant Settlement-officer, a Survey-officer and an Assistant Survey-officer may hold his Court at any place within the limits of the district or sub division to which he is appointed

141. (1) The Chief Commissioner and any officer mentioned in section 140, may summon any person whose attendance he considers necessary for the purposes of any investigation or other business before him conducted under this Regulation — Power to summon persons to give evidence etc.

(2) *All persons so summoned shall be bound to attend either in person or* by authorised agent as such officer may direct,

and to state the truth upon any subject respecting which they are examined,

and to produce such documents and other things as may be required

142. If any person fails to comply, within the time fixed by a notice served on him, with any *requisition made upon him under section* 141, the *officer* making the requisition may impose upon him such daily fine as he thinks fit, not exceeding fifty rupees, until the requisition is complied with. — Power to fine person summoned for non-attendance.

Provided that, whenever the amount levied under an order under this section passed by an officer other than the Commissioner or the Chief Commissioner exceeds five hundred rupees, the Deputy Commissioner shall report

the case to the Commissioner, or if there is no Commissioner, to the Chief Commissioner, and no further levy in respect of the fine shall be made otherwise than by authority of the Commissioner or Chief Commissioner as the case may be.

Power to refer disputes to arbitration.

143. (*1*) The Chief Commissioner, a Commissioner of a Division, a Deputy Commissioner, a Sub-divisional Officer, a Settlement-officer or an Assistant Settlement-officer, a Survey-officer or an Assistant Survey-officer may, with the consent of the parties, refer any dispute before him to arbitration.

(*2*) In all cases referred to arbitration the procedure laid down in the Code of Civil Procedure[1] in force for the time being shall be followed so far as applicable, and the officer referring the case shall discharge the functions of the Civil Court. XIV

Recovery of fines and costs.

144. All fees, rents, fines, costs and other money payable under this Regulation, or under rules made by the Chief Commissioner under this Regulation, shall be recoverable as an arrear of land-revenue.

Recovery of rents, fees, royalties, and of money due to Government in certain cases.

[2]**144A.** All rents, fees and royalties due to the Government for the use or occupation of land or water (whether the property of the Government or not) or on account of any products thereof, and all moneys falling due to Government under any grant, lease, security bond, or contract which provides that they shall be so recoverable, may be recovered under this Regulation in the same manner as an arrear of land-revenue.

Proceedings against defaulting Revenue-officers.

145. If a Deputy Commissioner has reason to believe that a Revenue-officer subordinate to him, who has collected any sum due under this Regulation, has absconded, or is about to abscond, without accounting for such sum, he may issue a warrant for the apprehension of the officer, and proceed against him, or cause proceedings to be instituted against him, under Chapter V, as if he were a defaulter in the amount so collected.

Proceedings against sureties of defaulters or Revenue-officers.

146. Any person who has become liable for any amount as surety for a defaulter or Revenue-officer may be proceeded against in the manner prescribed in Chapter V as if he were a defaulter in such amount.

Officers to whom appeals lie.

147. Appeals shall lie under this Regulation as follows :—

(*a*) to the Chief Commissioner, from any original or appellate order passed by a Commissioner,

(*b*) to the Chief Commissioner, from any order, original or appellate, passed by a Deputy Commissioner of a district not included in any division of a Commissioner or by a Settlement-officer in any such district ;

(*c*) to the Commissioner, from orders, original or appellate, passed by a Deputy Commissioner, Settlement-officer or Survey-officer ;

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[1] Act XIV of 1882 was repealed and re-enacted by the Code of Civil Procedure, 1908 (Act. V of 1908), *see* Genl. Acts, Vol. VI.

[2] S. 144A was inserted by the Assam Land and Revenue (Amendment) Regulation, 1905 (II of 1905), s. 9, *post*. It has been brought into force, by notification under s. 1 (2) of that Regulation, in all areas in which Ch. VIII of Reg. 1 of 1886 is in force (*see* the "Local Extent" footnote to this Regulation *ante*) except the North Cachar Hills.

(*d*) to the Deputy Commissioner, from orders passed by a Sub divisional Officer, an Assistant Commissioner or Extra Assistant Commissioner and from orders, original or appellate passed by a Survey-officer in a district not included in any division of a Commissioner,

(*e*) to a Settlement officer, from orders passed by an Assistant Settlement-officer,

(*f*) to a Survey officer from orders passed by an Assistant Survey officer

Provided that no appeal shall lie against the following orders —

(*g*) orders of an Assistant Settlement officer or Assistant Survey officer under sections 21 and 22

(*h*) orders of a Survey officer or Settlement officer—

(*1*) under sections 21, 22 and 24,

(*2*) apportioning the expenses of erecting and repairing boundary-marks in accordance with rules made under section 27,

(*i*) orders of a Survey officer, Settlement officer or Deputy Commissioner, original or appellate, imposing or confirming a fine not exceeding fifty rupees

(*j*) orders of a Commissioner imposing a fine not exceeding one hundred rupees,

(*k*) any decision given in accordance with an award of arbitrators appointed under section 143, except in the case of fraud or collusion,

(*l*) orders under section 148, admitting an appeal after the period of limitation has expired,

(*m*) orders expressly declared by this Regulation to be final subject to the provisions of section 151

148. (*1*) Unless otherwise specially provided in this Regulation, or in rules issued under this Regulation,— Limitation of appeal

(*a*) no appeal under section 147, clauses (*d*) (*e*) and (*f*) shall lie after the expiration of thirty days from the date of the order appealed against,

(*b*) no appeal under the same section clause (*c*) shall lie after the expiration of six weeks from the date of the order appealed against,

(*c*) no appeal under the same section clauses (*a*) and (*b*), shall lie after the expiration of two months from the date of the order appealed against

(*2*) In computing the period prescribed for an appeal by this section, the day on which the order appealed against was passed, and the time requisite for obtaining a copy of such order, shall be excluded

(*3*) An appeal may be admitted after the period of limitation prescribed therefor by this section when the appellant satisfies the officer to whom he appeals that he had sufficient cause for not presenting the appeal within that period

Procedure of Appellate Court on appeal.

149. The officer to whom the appeal lies may reject the appeal without hearing the respondent (if any); if he admits the appeal, he may reverse, modify or confirm the order appealed against, or he may direct such further investigation to be made or such additional evidence to be taken as he may think necessary, or he may himself take such additional evidence.

Suspension of order appealed against.

150. In any case in which an appeal is admitted the Appellate Court may, if it thinks fit, pending the result of the appeal, direct the order appealed against to be suspended.

Power to call for proceedings of subordinate officers.

151. The Chief Commissioner, a Commissioner, a Deputy Commissioner, a Settlement-officer and a Survey-officer may call for the proceedings held by any officer subordinate to him, and pass such orders thereon as he thinks fit.

Power to make rules.

152. The Chief Commissioner may make rules, consistent with this Regulation, to regulate the procedure of officers in the discharge of any duty imposed on them by or under this Regulation, and may by such rules confer upon any officer any power exercised by a Civil Court in the trial of suits.

CHAPTER IX.

Miscellaneous.

Proceedings under this Regulation unaffected by mistake, misdescription or irregularity.

153. (*1*) No proceedings under this Regulation shall be affected by reason of any mistake in the name of any person thereby rendered liable to pay any sum of money, or in the description of any estate in respect of which he is rendered liable to pay, or by reason of any other informality, provided that the provisions of this Regulation, and of the rules passed under this Regulation, have been substantially complied with.

(*2*) No proceedings under this Regulation shall be affected by reason of any irregularity or omission in the publication or service of any notice or proclamation thereunder, unless it is proved that some material injury was caused by such irregularity or omission.

Matters exempted from cognizance of Civil Court.

154. (*1*) Except when otherwise expressly provided in this Regulation, or in rules issued under this Regulation, no Civil Court shall exercise jurisdiction in any of the following matters:—

(*a*) questions as to the validity or effect of any settlement, or as to whether the conditions of any settlement are still in force;

(*b*) question as to the amount of revenue, tax, cess or rate to be assessed, and the mode or principle of assessment;

(*c*) the formation of the record-of-rights, or the preparation, signing or alteration of any document contained therein;

(*d*) claims of persons to perfect partition;

(*e*) claims of persons to imperfect partition, except in cases in which a perfect partition could not be claimed from, and has been refused by, the Revenue authorities on the ground that the result of such

partition would be to form a separate estate liable for an annual amount of revenue less than five rupees,

(*f*) the distribution of the land or allotment of the revenue on partition,

(*g*) claims connected with, or arising out of, the collection of land-revenue or any process for the recovery of an arrear of land-revenue or of any sum which is by this Regulation, or by any other enactment for the time being in force, realisable as an arrear of land-revenue,

(*h*) claims to occupy or resort to lands under sections 13 and 14, and disputes as to the use and enjoyment of such lands between persons permitted to occupy or resort to the same,

(*i*) claims to have an allotment made under section 13 or section 14, and objections to the making of such allotment

(*j*) claims to a remission or refund of any revenue, cess, tax, rate, fee or fine payable or paid under this Regulation or leviable under any enactment for the time being in force as an arrear of land revenue,

(*k*) claims to set aside a decision passed in accordance with an award of arbitrators

(*l*) claims to any office connected with the revenue-administration or to any emolument appertaining to such office, or in respect of any injury caused by exclusion, suspension or removal therefrom, and

(*m*) any matter respecting which an order expressly declared by this Regulation to be final, subject to the provisions of section 151 has been passed

(*2*) In all the above cases jurisdiction shall rest with the revenue-authorities only.

(*3*) Notwithstanding anything in section 265 or section 396 of the Code of Civil Procedure, [1] a Civil Court may, in the case of a claim for an imperfect partition with respect to which its jurisdiction is not barred by this section, exercise the same powers in making the partition of a revenue paying estate as it is competent to exercise in making the partition of a revenue-free estate.

(*4*) When a Civil Court has made an imperfect partition of a revenue-paying estate, the amount of revenue for which each portion of the divided estate is, as between that portion and the other portions, to be liable shall be determined by the Deputy Commissioner in the same manner as if the partition had been carried out by himself under Chapter VI of this Regulation.

155. The Chief Commissioner may, in addition to the other matters for which he is empowered by this Regulation to make rules, make rules, consistent with this Regulation, relating to the following matters — Additional power to make rules.

(*a*) the person by whom, and the time, place and manner at or in which, anything is to be done, for the doing of which provision is made in this Regulation or the rules made thereunder,

[1] Act XIV of 1882 was repealed and re-enacted by the Code of Civil Procedure, 1908 (Act V of 1908) Genl Acts, Vol VI

(*b*) the mode in which notices, proclamations, summonses, warrants and other processes issued under this Regulation shall be issued, published and served, and fees to be charged for the issue, publication and service of such processes;

(*c*) the costs of all proceedings under this Regulation;

(*d*) the manner in which representatives shall be appointed to act in matters relative to this Regulation on behalf of anybody of settlement-holders or persons entitled to, or with whom it may be desirable to make, a settlement;

(*e*) the granting of licenses to prepare or collect, or the farming of the right of preparing or collecting, rubber, lac and other forest-produce upon land over which no person has the rights of a proprietor, landholder or settlement-holder;

(*f*) the granting of licenses, or the farming of the right, to work mine-stone and lime quarries, salt-wells, and oil-wells, to fish in fisheries proclaimed under section 16, and to carry on gold-washing operations;

(*g*) the payments in consideration of which, and the conditions on which, such licenses or farms may be granted; and,

(*h*) generally to carry out the provisions of this Regulation.

Penalty for breach of rules.

156. The Chief Commissioner may, in making any rule under this Regulation, attach to the breach of it, in addition to any other consequence which would ensue from such breach, a penalty which may extend to two hundred rupees, or, when such breach is a continuing breach, to fifty rupees for each day during which such breach continues.

Making and publication of rules.

157. (*1*) The Chief Commissioner shall, before making any rules under this Regulation, publish in such manner as may, in his opinion, be sufficient for giving information to persons interested, a draft of the proposed rules, with a notice specifying a date at or after which the draft will be taken into consideration; and shall, before making the rules, receive and consider any objection or any suggestion which may be made by any person with respect to the draft before the date so specified.

(*2*) If, on such consideration of the draft, any modification is made, the Chief Commissioner shall determine whether it is necessary to re-publish the draft under this section.

(*3*) In making rules under this Regulation, the Chief Commissioner shall act subject to the control of the Governor General in Council.

(*4*) All rules made by the Chief Commissioner under this Regulation shall be published in the local official Gazette, and shall thereupon have the force of law.

158. (*1*) The Chief Commissioner shall at least once in every three years cause all rules in force under this Regulation to be arranged in some convenient order according to their subject matter and consolidated, and, where necessary, shall, subject to the control of the Governor General in Council amend the rules so arranged and consolidated **Consolidation and republication of rules.**

(*2*) The rules so arranged consolidated and amended shall be published in the local official gazette, and upon such publication all previous rules under the Regulation shall cease to be in force

159. All powers conferred by this Regulation may be exercised from time to time as occasion requires **Powers exerciseable from time to time**

THE SCHEDULE

(*See section 2*)

ENACTMENTS REPEALED

PART I —*Bengal Regulations*

Number and year	Subject	Extent of repeal.
19 1793	Non badshahi lákhiraj grants	The whole.
37	Badshahi lákhiraj grants	Ditto
48	Quinquennial Register	Ditto
3 1794	Collection of land Revenue Embezzlement by tahsildars	Ditto
15, 1797	Fees	Ditto
8 1800	Pargana Register and Mutations	Ditto
1 1801	Division of joint estates	Ditto
11 1811	Partition	Ditto
5 1812	Leases by proprietors Collection of land revenue	Ditto
18	Leases by proprietors Partition	Ditto
19 1814	Partition	Ditto
2 1819	Resumption	Ditto
4 1821	Assistant Collectors	Ditto
[illegible] 1822	Board of Revenue	Ditto
7	Settlement	Ditto
11,	Sales of land for arrears of revenue	Ditto
9 1825	Extending Regulation 7 1822	Ditto
[illegible]	Lákhiraj tenures Kánungos	Ditto
14	Lákhiraj tenures	Ditto
3 1828	Special Commissioners	Ditto
4	Settlement	Ditto
1 1829	Commissioners	Ditto
9 1833	Settlement, Deputy Collectors	Ditto.

PART II.—*Acts of the Governor General in Council.*

Number and year.	Subject.	Extent of repeal.
[1] Act 2, 1835	Assam ; Arracan ; Tenasserim	So far as it refers to the Board of Revenue.
[1] „ 6 „	Khási Hills and Cachar	Ditto.
„ 20, 1836	Partition	The whole.
„ 21, „	Zilas	Ditto.
„ 11, 1838	Remuneration of Amins effecting partitions	Ditto.
„ 12, 1841	Sales of land for arrears of revenue	Ditto.
„ 9, 1847	Assessment of land gained by alluvion	Ditto.
„ 20, 1848	Attendance before Collectors	Ditto.
„ 12, 1850	Default of public accountants	Ditto.
„ 44, „	Board of Revenue	Ditto.
„ 31, 1858	Settlement of alluvial lands	Ditto.
„ 11, 1859	Sales of land for arrears of revenue	Ditto.

PART III.—*Acts of the Lieutenant-Governor of Bengal in Council.*

Number and year.	Subject	Extent of repeal.
Act 3, 1862	Amending Act 11 of 1859	The whole.
„ 7, „	Repealing section 30, Regulation 2, 1819	Ditto.
„ 4, 1864	Amending Act 21, 1836	Ditto.
„ 3, 1868	„ Regulation 7, 1822	Ditto.
„ 4, „	„ Act 9, 1847	Ditto.
„ 7, „	„ Act 11, 1859	Ditto.
„ 2, 1871	„ Act 11, 1859	Ditto.
[2] „ 7, 1880	Recovery of Public Demands	So far as it relates to recovery of arrears of land-revenue.

PART IV.—*Regulation under 33 Victoria, Chapter 3.*

Number and year.	Subject.	Extent of repeal.
Regulation 4, 1875	Realisation of arrears of revenue in Sylhet and Goálpára.	The whole.

[1] Acts II and VI of 1835 were entirely repealed by the Repealing and Amending Act, 1891 (XII of 1891).

[2] Bengal Act VII of 1880 was repealed and re-enacted by Ben. Act I of 1895 which again has been repealed and re-enacted by Ben. Act III of 1913 (Public Demands Recovery).

REGULATION 2 OF 1889.

(THE ASSAM LAND AND REVENUE REGULATION, 1889)

[*6th April, 1889*]

A Regulation to amend the Assam Land and Revenue Regulation, 1886 [1]

WHEREAS it is expedient to amend the Assam Land and Revenue Regulation, 1886 [1], It is hereby enacted as follows —

Title, commencement and application

1. (*1*) This Regulation may be called the Assam Land and Revenue Regulation, 1889,

(2) It shall come into force on such day [2] as the Chief Commissioner may, by notification in the local official Gazette, appoint in this behalf and

(3) It shall apply to arrears of revenue which have accrued whether before or after it comes into force, but not so as to affect any proceedings instituted before it comes into force

Definition.

2. In this Regulation, "section" means a section of the Assam Land and Revenue Regulation, 1886 [1]

Amendment of section 70

3. In the proviso to section 70, clause (*1*), before the words "an estate which is not permanently settled" the words "except when the Chief Commissioner, by general order applicable to any local area or any class of cases, or by special order, otherwise directs" shall be inserted

Substitution of new section for section 72

4. For section 72 the following shall be substituted, namely —

72 [Printed *ante* p 270]

Amendment of section 74

5. In section 74, sub section (2), for the words "proclamation of sale" the words "list of estates" shall be substituted

Amendment of section 75

6. In section 75, after the word "sold" the words "and the fee (if any) prescribed in this behalf" shall be inserted

Addition to section 79

7. To section 79 the following shall be added, namely —

[Printed *ante* p 272]

Substitution of new section for section 81

8 For section 81 the following shall be substituted, namely —

81 [Printed *ante* p 272]

Addition to section 85

9. To section 85 the following shall be added, namely —

[Printed *ante* p 273]

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[1] Printed *ante* p 251

[2] The 21st September, 1889—*see* Assam Gazette, 1889, Pt II, p. 433

REGULATION 3 OF 1891.

(THE SYLHET JHUM REGULATION, 1891.)[1]

[*6th June, 1891.*]

A Regulation to provide for the commutation of the rights, if any, corresponding to the *jhum*, *tippera*, *gurkati* and *pani-sikka* assets of certain permanently-settled estates in the District of Sylhet.

WHEREAS the officers who effected the permanent settlements of certain estates in the district of Sylhet included, for the purposes of assessment among the assets of those of estates, under the designations of *jhum*, *tippera*, *gurkati* and *pani-sikka*, the income then derived by the proprietors of those estates from shifting cultivation carried on by them or their dependants beyond the limits of those estates, and from tolls levied by them on forest-produce cut, gathered or enjoyed in places beyond the limits of those estates, and, in the case of *pani-sikka*, from some source now unknown ;

And whereas, inasmuch as the said cultivation and the operations of those who cut, gathered or enjoyed the said forest-produce shifted from year to year over immense and altogether undefined areas, the tracts of land over which they extended were not specified at the time of the settlement, and, in consequence of this, rights of various and in some cases vague, descriptions are from time to time asserted by the said proprietors over immense and undefined areas ;

And whereas it is thus impossible for any person to obtain a safe and clear title to land in those areas, and the extension of cultivation is, in consequence, impeded ;

And whereas it is expedient that the rights, if any, corresponding to the said *jhum*, *tippera*, *gurkati* and *pani-sikka* assets should be commuted ;

It is hereby enacted as follows :—

Title, extent and commencement.

1. (*1*) This Regulation may be called the Sylhet Jhum Regulation, 1891.

(*2*) It shall apply to such local areas in the district of Sylhet as the Chief Commissioner may, by notification in the local official Gazette, direct ; and

(*3*) It shall come into force in each such area on such day, not being less remote than one month from the date of the notification, as the Chief Commissioner may, by the notification, fix in this behalf.

(*4*) Every notification under the section applying this Regulation to any local area and fixing the day on which it is to come into force in the local area.

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[1] LOCAL EXTENT.—This Regulation extends only to notified areas in the district of Sylhet—*see* s. 1. For a list of notified areas, *see* the Assam Land-revenue Manual, 1906, pp. 154 to 156.

ORDERS.—For orders as to the grant of leases of waste lands, *see* the Assam Land-revenue Manual, 1906, pp. 156 to 159.

shall, as soon as may be, in addition to the publication in the local official Gazette, be further published—

(*a*) by the posting, in the manner prescribed for the posting of copies of statements under section 72, sub section (*5*), of the [1] Assam Land and Revenue Regulation, 1886, of a copy of the notification, with a copy or summary of this Regulation appended thereto, on or in the vicinity of every estate of which the whole or any part is comprised in the local area, and

(*b*) in such other manner, if any, as the Chief Commissioner may prescribe

Extinction of certain rights

2. All rights (if any) in respect of which *jhum, tippera, gurkati* or *panisikka* assets were assessed in any permanent settlement of land, or which have been at any time acquired by virtue of or under cover of such assessment, shall be deemed to have been extinguished, and no person shall in any suit or proceeding instituted, whether before or after this Regulation comes into force, make or support any claim on the ground of such rights

Provided that nothing in this section shall affect the decision of the suits Nos 7 and 10 of 1886 at present pending in the Court of the Judge of Sylhet, between the Maharaja of Hill Tippera, the Secretary of State for India in Council, John Muir, the South Sylhet Tea Company, Limited, and others

Compensation for extinguished rights

3. (*1*) When any such assets have been assessed in the settlement of a permanently-settled estate, and, within the period of twelve years immediately preceding the day fixed in the notification under section 1 for the coming into force of this Regulation in the local area in which the estate is situated, the proprietor of the estate or his predecessor in interest has actually enjoyed them, the proprietor of the estate shall be entitled to compensation in respect of them if, within six months from the day so fixed for the coming into force of this Regulation in such local area, he applies to the Deputy Commissioner or such other officer as the Chief Commissioner may appoint by name or by office to discharge the functions of the Deputy Commissioner under this Regulation

(*2*) The compensation to be allowed shall be determined by the Deputy Commissioner or other officer as aforesaid with reference to the extent to which the assets have been enjoyed by the applicant or his predecessor in interest during the said period of twelve years, and may, at the option of the applicant, take the form either of a grant of land in full proprietary right to be added to the applicant's estate or of a payment of money, the Deputy Commissioner selecting the land if compensation in that form is preferred.

Provided that no compensation shall be awarded under this Regulation in any case in which it appears to the Deputy Commissioner or other officer

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[1] Printed *ante* p 251

as aforesaid that the claims of the applicant have been already commuted by the assignment of land to him or his predecessor in interest by the revenue or survey authorities or have been otherwise satisfied.

Confirmation of orders by Local Government.

4. Every order passed under this Regulation shall be subject to the confirmation of the Chief Commissioner, whose decision confirming, modifying or reversing it shall be final and conclusive.

Provision with respect to defects in publication of notification of commencement of Regulation.

5. (*1*) No proceeding had, and no order or decision passed, under this Regulation shall be deemed invalid or deprived of any of its effect by reason of any omission in, or informality or irregularity as regards, the publication of any notification under section 1 applying this Regulation to any local area and fixing the day on which it is to come into force in the local area :

Provided that, if, on petition in writing received in the office of the Secretary to the Chief Commissioner within either of the following periods (whichever may happen to be the longer), namely :—

(*a*) the period of one year after the expiration of the time allowed by sub-section (*1*) of section 3 for the making, by the proprietor of an estate in any local area in which this Regulation has come into force, of an application under that sub-section to the Deputy Commissioner, or such other officer as is referred to in the sub-section ;

(*b*) the period of six months after the passing by the Deputy Commissioner or other officer as aforesaid of an order on any application made under, and within the time allowed by, that sub-section by the proprietor of any estate in any such local area.

the Chief Commissioner is of opinion that any proprietor of an estate in the local area has been prejudiced by any such omission, informality or irregularity, the Chief Commissioner may, by resolution in writing, authorise the Deputy Commissioner or other officer as aforesaid to receive within a time to be specified in the resolution, an application from the proprietor of the estate, and to pass orders thereon, as if the application has been made under, and within the time allowed by, sub-section (*1*) of section 3.

(*2*) Where the Deputy Commissioner or other officer as aforesaid has been authorised under the proviso to sub-section (*1*) of this section to receive, and pass orders on, an application by the proprietor of an estate, and has received the application and passed orders thereon, the provisions of section 4 with respect to the confirmation by the Chief Commissioner of orders passed by the Deputy Commissioner or other officer as aforesaid, and with respect to the finality and conclusiveness of decisions of the Chief Commissioner shall apply as if the application has been made under, and within the time allowed by, sub-section (*1*) of section 3 and had been disposed of by the Deputy Commissioner or other officer as aforesaid under sub-section (*2*) of that section.

REGULATION 7 OF 1891

(THE ASSAM FOREST REGULATION, 1891)

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REGULATION 7 OF 1891.

(THE ASSAM FOREST REGULATION, 1891.)[1]

[*9th January, 1892.*]

A Regulation to amend the law relating to forests, forest-produce and the duty leviable on timber in Assam.

WHEREAS it is expedient to amend the law relating to forests, forest-produce and the duty leviable on timber in Assam; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (*1*) This Regulation may be called the Assam Forest Regulation, 1891.

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[1] LOCAL EXTENT.—This Regulation extends to Assam, but any place therein may be exempted from its operation—*see* s. 1.

The application of the Regulation is barred in the Lushai Hills by notification—*see* Vol. II, Appendix II, Table D.

RULES AND ORDERS.—For rules made under this Regulation, *see* the Assam Forest Manual, 1898, pp. 34 to 62, and Correction Slips thereto; and for executive orders relating to Assam forests, *see ib.*, pp. 65 to 207, and Correction Slips thereto, and the Assam Executive Manual, 1905, pp. 70, 71.

(2) It extends to the whole of the territories for the time being administered by the Chief Commissioner of Assam,

Provided that the Local Government may, by notification in the official Gazette, exempt any place from the operation of the whole or any part thereof, and withdraw such exemption, and

(3) It shall come into force on such day[1] as the Local Government, by notification in the official Gazette, directs

(4) A notification under the proviso to sub-section (2), exempting a place from the operation of the whole or any part of the Regulation, shall not affect anything done, or any offence committed, or any fine or penalty imposed, in such place before such exemption

Repeal, and saving of rules and other proceedings

2. (1) On and from the day on which this Regulation comes into force, the Indian Forest Act, 1878,[2] as amended by subsequent enactments shall be repealed

(2) But all acts done, proceedings had, appointments made, powers conferred, rules prescribed and notifications published under the said Indian Forest Act, 1878,[2] or under any other law relating to matters for which this Regulation provides, shall, so far as they are not inconsistent with this Regulation, be deemed to have been respectively done, had, made, conferred, prescribed and published under this Regulation

Definitions.

3. In this Regulation, and in all rules made thereunder, unless there is something repugnant in the subject or context,—

(1) "Forest-officer" means any person appointed by name or as holding an office by or under the orders of the Governor General in Council or the Local Government to be a Conservator, Deputy Conservator, Assistant Conservator, Sub-Assistant Conservator, Forest ranger, Forester or Forest-guard, or to discharge any function of a Forest officer under this Regulation or any rule thereunder

(2) "tree" includes palms, bamboos, stumps, brushwood and canes

(3) "timber" includes trees when they have fallen or have been felled, and all wood, whether cut up or fashioned or hollowed out for any purpose or not

(4) "forest produce" includes—

(a) the following, whether found in, or brought from, a forest or not, that is to say —

timber, charcoal, caoutchouc, catechu, wood oil, resin, natural varnish, bark, lac and myrabolams, and

(b) the following, when found in, or brought from, a forest, that is to say —

(i) trees and leaves, and fruits, and all other parts or produce, not hereinbefore mentioned, of trees

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[1] The 1st April 1892—see Assam Gazette, 1892, Pt II, p 172.
[2] Genl. Acts, Vol II.

(ii) plants not being trees (including grass, creepers, reeds and moss), and all parts or produce of such plants,

(iii) wild animals and skins, tusks, horns, bones, silk, cocoons, honey and wax, and all other parts or produce of animals, and

(iv) peat, surface-soil, rock and minerals (including limestone, laterite, mineral oils and all products of mines or quarries):

(*5*) "forest-offence" means an offence punishable under this Regulation or any rule thereunder:

(*6*) "cattle" includes also elephants, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids:

(*7*) "river" includes also streams, canals, creeks and other channels natural or artificial:

(*8*) "land at the disposal of the Government" means land in respect of which no person has acquired—

(*a*) a permanent, heritable and transferable right of use and occupancy under any law for the time being in force; or

(*b*) any right created by grant or lease made or continued by, or on behalf of, the British Government; and

(*9*) "Magistrate" means a Magistrate of the first or second class, and includes a Magistrate of the third class when he is specially empowered by the Local Government to try forest-offences.

CHAPTER II.

Reserved Forests.

4. The Local Government may constitute any land at the disposal of the Government a reserved forest in manner hereinafter provided. Power to constitute reserved forest.

5. (*1*) Whenever it is proposed to constitute any land a reserved forest, the Local Government shall publish a notification in the official Gazette— Notification by Local Government of proposal to constitute a reserved forest.

(*a*) specifying, as nearly as possible, the situation and limits of such land;

(*b*) declaring that it is proposed to constitute such land a reserved forest; and,

(*c*) appointing an officer (hereinafter called the Forest-settlement-officer), to inquire into and determine the existence, nature and extent of any rights claimed by, or alleged to exist in favour of, any person in or over any land comprised within such limits, and any claims relating to the practice within such limits of jhum-cultivation, and to deal with the same as provided in this Chapter.

(*2*) The Forest-settlement-officer shall ordinarily be a person other than a Forest-officer, but a Forest-officer may be appointed by the Local Gov-

ernment to assist the Forest settlement officer in the inquiry prescribed by this Chapter

6. When a notification has been published under section 5 the Forest settlement officer shall publish in the language of the country, at the head quarters of each district and sub division in which any portion of the land comprised in such notification is situate, and in every town and village in the neighbourhood of such land, a proclamation— Proclamation by Forest settlement-officer.

(*a*) specifying, as nearly as possible, the situation and limits of the proposed forest,

(*b*) setting forth the substance of the provisions of the next following section,

(*c*) explaining the consequences which as hereinafter provided, will ensue on the reservation of such forest, and

(*d*) fixing a period of not less than three months from the date of the publication of such proclamation and requiring every person claiming any right or making any claim referred to or mentioned in section 5 either to present to such officer within such period a written notice specifying or to appear before him within such period and state the nature of such right or claim

7 (*1*) During the interval between the publication of such proclamation and the date fixed by the notification declaring the forest to be reserved as hereinafter provided no right shall be acquired in or over the land comprised in such notification except by succession or under a grant or contract in writing made or entered into by or on behalf of, the Government or some person in whom such right or power to create such right was vested when the proclamation was published, and on such land no new house shall be built or plantation formed, no fresh clearings for cultivation or for any other purpose shall be made, and no trees shall be cut for the purpose of trade or manufacture except as hereinafter provided Bar of accrual of forest rights after proclamation.

(*2*) Nothing in this section shall be deemed to prohibit any act done with the permission in writing of the Forest settlement-officer, or any clearings lawfully made for jhum cultivation by persons in the habit of practising such cultivation on such land

8 (*1*) The Forest settlement officer shall take down in writing all statements made under section 6, and shall inquire into all claims made under that section and the existence of any right or practice mentioned in section 5 in respect of which no claim is made Inquiry by Forest settlement officer

(*2*) The Forest settlement officer shall at the same time consider and record any objection which the Forest officer, if any, appointed under section 5 to assist him, may make to any such claim or with respect to the existence of any such right or practice

Powers of Forest-settlement-officer.

9. For the purposes of such inquiry the Forest-settlement-officer may exercise—

(*a*) power to enter, by himself or any officer authorised by him for the purpose upon any land, and to survey, demarcate and make a map of the same; and

(*b*) the powers of a Civil Court in the trial of suits.

Treatment of claims relating to practice of jhum-cultivation.

10. (*1*) In the case of a claim relating to the practice of jhum-cultivation, the Forest-settlement-officer shall record a statement setting forth the particulars of the claim and of any local rule or order under which the practice is allowed or regulated, and submit the statement to the Local Government, together with his opinion as to whether the practice should be permitted or prohibited wholly or in part.

(*2*) On receipt of the statement and opinion the Local Government may make an order permitting or prohibiting the practice wholly or in part.

(*3*) If such practice is permitted wholly or in part, the Forest-settlement-officer may arrange for its exercise—

(*a*) by altering the limits of the land under settlement so as to exclude land of sufficient extent, of a suitable kind and in a locality reasonably convenient for the purposes of the claimants, or

(*b*) by causing certain portions of the land under settlement to be separately demarcated, and giving permission to the claimants to practise jhum-cultivation therein under such conditions as he may prescribe.

All arrangements made under this sub-section shall be subject to the previous sanction of the Local Government.

(*4*) The practice of jhum-cultivation shall in all cases be deemed to be a privilege subject to control, restriction and abolition by the Local Government, and not to be a right.

Power to acquire land over which right is claimed.

11. (*1*) In the case of a claim to a right in or over any land other than the following rights, namely:—

(*a*) a right of way,

(*b*) a right to a water-course or to use of water,

(*c*) a right of pasture or to forest-produce,

the Forest-settlement-officer shall pass an order specifying the particulars of such claim and admitting or rejecting the same wholly or in part.

(*2*) If such claim is admitted wholly or in part, the Forest-settlement-officer may—

(*x*) come to an agreement with the claimant for the surrender of the right, or

(*y*) exclude the land from the limits of the proposed forest, or

(*z*) proceed to acquire such land in the manner provided by the Land Acquisition Act, 1870.[1] X of 187

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[1] Act X of 1870 has been repealed and re-enacted by Act I of 1894 (the Land Acquisition Act, 1894), *see* Genl. Acts, Vol. IV.

(3) For the purpose of so acquiring such land—

(i) the Forest-settlement-officer shall be deemed to be a Collector proceeding under the Land Acquisition Act, 1870,[1]

(ii) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under section 9 of that Act,[1]

(iii) the provisions of the preceding sections of that Act[1] shall be deemed to have been complied with, and

(iv) the Collector, with the consent of the claimant, may award compensation in land, or in money, or partly in land and partly in money

Order on *claims to* rights of way water course or pasture, or to forest produce.

12. (*1*) In the case of a claim to a right of a kind specified in clause (*a*), clause (*b*) or clause (*c*) of section 11, sub-section (*1*), the Forest-settlement-officer shall pass an order specifying the particulars of such claim and admitting or rejecting the same wholly or in part

(*2*) When a claim to any such right is admitted, if the right is for the beneficial enjoyment of any land or building, the Forest-settlement-officer shall record the designation, position and area of such land or the designation and position of such building

(*3*) Where the right is a right to forest-produce, the Forest-settlement-officer shall record whether the forest-produce obtained by the exercise of such right may be leased, sold or bartered, and such other particulars as may be necessary in order to define the nature, incidents and extent of the right

Provision for rights of pasture or to forest produce admitted.

13. (*1*) When the Forest-settlement-officer has admitted wholly or in part and recorded under the last foregoing section a claim to a right of pasture or to forest-produce, he shall, as far as possible, provide for the exercise of such right—

(*a*) by altering the limits of the proposed reserved-forest so as to exclude land of sufficient extent, of a suitable kind and in a locality reasonably convenient for the purposes of the claimant, or

(*b*) by recording an order continuing to the claimant a right of pasture or to forest-produce, as the case may be, subject to such rules as may be prescribed by the Local Government

(*2*) An order passed under clause (*b*) of sub-section (*1*) shall record, as far as practicable,—

(i) where the right is a right of pasture, the number and description of the cattle which the claimant is, from time to time, entitled to graze, and the local limits within which, and the seasons during which, such pasture is permitted, and

(ii) where the right is a right to forest-produce, the quantity of such produce which the claimant is authorized to take or receive, and the local limits within which, the seasons during which, and the mode in which, the taking or receiving of such produce is permitted, and

[1] Act X of 1870 has been repealed and re enacted by Act I of 1894 (the Land Acquisition Act, 1894), see Genl. Acts Vol IV.

Powers of Forest-settlement-officer.

9. For the purposes of such inquiry the Forest-settlement-officer may exercise—

(*a*) power to enter, by himself or any officer authorised by him for the purpose upon any land, and to survey, demarcate and make a map of the same; and

(*b*) the powers of a Civil Court in the trial of suits.

Treatment of claims relating to practice of jhum-cultivation.

10. (*1*) In the case of a claim relating to the practice of jhum-cultivation, the Forest-settlement-officer shall record a statement setting forth the particulars of the claim and of any local rule or order under which the practice is allowed or regulated, and submit the statement to the Local Government, together with his opinion as to whether the practice should be permitted or prohibited wholly or in part.

(*2*) On receipt of the statement and opinion the Local Government may make an order permitting or prohibiting the practice wholly or in part.

(*3*) If such practice is permitted wholly or in part, the Forest-settlement-officer may arrange for its exercise—

(*a*) by altering the limits of the land under settlement so as to exclude land of sufficient extent, of a suitable kind and in a locality reasonably convenient for the purposes of the claimants, or

(*b*) by causing certain portions of the land under settlement to be separately demarcated, and giving permission to the claimants to practise jhum-cultivation therein under such conditions as he may prescribe.

All arrangements made under this sub-section shall be subject to the previous sanction of the Local Government.

(*4*) The practice of jhum-cultivation shall in all cases be deemed to be a privilege subject to control, restriction and abolition by the Local Government, and not to be a right.

Power to acquire land over which right is claimed.

11. (*1*) In the case of a claim to a right in or over any land other than the following rights, namely :—

(*a*) a right of way,

(*b*) a right to a water-course or to use of water,

(*c*) a right of pasture or to forest-produce,

the Forest-settlement-officer shall pass an order specifying the particulars of such claim and admitting or rejecting the same wholly or in part.

(*2*) If such claim is admitted wholly or in part, the Forest-settlement-officer may—

(*x*) come to an agreement with the claimant for the surrender of the right, or

(*y*) exclude the land from the limits of the proposed forest, or

(*z*) proceed to acquire such land in the manner provided by the Land Acquisition Act, 1870.[1] X of 1870.

[1] Act X of 1870 has been repealed and re-enacted by Act I of 1894 (the Land Acquisition Act, 1894), *see* Genl. Acts, Vol. IV.

(3) For the purpose of so acquiring such land—

(i) the Forest-settlement-officer shall be deemed to be a Collector proceeding under the Land Acquisition Act, 1870;[1]

(ii) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under section 9 of that Act;[1]

(iii) the provisions of the preceding sections of that Act[1] shall be deemed to have been complied with; and

(iv) the Collector, with the consent of the claimant, may award compensation in land, or in money, or partly in land and partly in money.

12. (*1*) In the case of a claim to a right of a kind specified in clause (*a*), clause (*b*) or clause (*c*) of section 11, sub-section (*1*), the Forest-settlement-officer shall pass an order specifying the particulars of such claim and admitting or rejecting the same wholly or in part. Order on claims to *rights of way*, water course or pasture, *or to forest-produce.*

(*2*) When a claim to any such right is admitted, if the right is for the beneficial enjoyment of any land or building, the Forest-settlement-officer shall record the designation, position and area of such land or the designation and position of such building.

(*3*) Where the right is a right to forest-produce, the Forest-settlement-officer shall record whether the forest-produce obtained by the exercise of such right may be leased, sold or bartered, and such other particulars as may be necessary in order to define the nature, incidents and extent of the right.

13. (*1*) When the Forest-settlement-officer has admitted wholly or in part and recorded under the last foregoing section a claim to a right of pasture or to forest-produce, he shall, as far as possible, provide for the exercise of such right— Provision for rights of pasture or *to* forest-produce admitted.

(*a*) by altering the limits of the proposed reserved-forest so as to exclude land of sufficient extent, of a suitable kind and in a locality reasonably convenient for the purposes of the claimant; or

(*b*) by recording an order continuing to the claimant a right of pasture or to forest-produce, as the case may be, subject to such rules as may be prescribed by the Local Government.

(*2*) An order passed under clause (*b*) of sub-section (*1*) shall record, as far as practicable,—

(i) where the right is a right of pasture, the number and description of the cattle which the claimant is, from time to time, entitled to graze, and the local limits within which, and the seasons during which, such pasture is permitted; and

(ii) where the right is a right to forest-produce, the quantity of such produce which the claimant is authorized to take or receive, and the local limits within which, the seasons during which, and the mode in which, the taking or receiving of such produce is permitted; and

[1] Act X of 1870 has been repealed and re-enacted by Act I of 1894 (the Land Acquisition Act, 1894) *see* Genl. Acts Vol. IV.

(iii) whether the right is a right of pasture or a right to forest-produce, such other particulars as may be required in order to define the extent of the right which is continued, the mode in which it may be exercised and the extent to which the benefit thereof may be leased, sold or bartered.

Commutation of such rights.

14. Whenever any right of pasture or to forest-produce admitted under section 12 is not provided for in one of the ways prescribed in section 13, the Forest-settlement-officer shall, subject to such rules as the Local Government may prescribe in this behalf, commute such right by paying a sum of money in lieu thereof, or, with the consent of the claimant, by the grant of land, or in such other manner as such officer thinks fit.

Appeal from order passed under foregoing sections.

15. Any person who has made a claim under this Chapter may, within three months from the date of any order passed on such claim by the Forest-settlement-officer under sections 11, 12, 13 or 14, present an appeal from such order to such officer of the Revenue Department, of rank not lower than that of a Deputy Commissioner as the Local Government may, by notification in the official Gazette appoint by name, or as holding an office, to hear appeals from such orders.

Appeals under the last foregoing section.

16. (*1*) Every appeal under the last foregoing section shall be made by petition in writing and may be delivered to the Forest-settlement-officer, who shall forward it without delay to the officer competent to hear the same.

(*2*) Every such appeal shall be heard in the manner prescribed for the time being for the hearing of appeals in matters relating to revenue, and, except as hereinafter provided, the order passed on the appeal shall be final.

Notification declaring forest reserved.

17. (*1*) When the following events have occurred, namely :—

(*a*) the period fixed under section 6 for preferring claims has elapsed, and all claims, if any, made within such period have been disposed of by the Forest-settlement-officer, and

(*b*) if such claims have been made, the period fixed by section 15 for appealing from the orders passed on such claims has elapsed, and all appeals, if any, presented within such period have been disposed of by the appellate officer, and

(*c*) all lands, if any, to be included in the proposed reserved forest which the Forest-settlement-officer has, under section 11, elected to acquire under the Land Acquisition Act, 1870,[1] have become vested in the Government under the Act, X of 18

the Local Government may publish a notification in the official Gazette, specifying the limits of the forest which it is intended to reserve, and declaring the same to be reserved from a date fixed by such notification.

(*2*) From the date so fixed such forest shall be deemed to be a reserved forest.

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[1] Act X of 1870 has been repealed and re-enacted by Act I of 1894 (the Land Acquisition Act, 1894), *see* Genl. Acts, Vol. IV.

18. Rights in respect of which no claim has been preferred under section 6 and of the existence of which no knowledge has been acquired by inquiry under section 8 shall thereupon be extinguished unless, before the publication of such notification, the person claiming them has satisfied the Forest-settlement-officer that he had sufficient cause for not preferring such claim within the period fixed under section 6 — Extinction of rights not claimed.

19. The Deputy Commissioner of the district in which the forest is situate shall, before the date fixed by such notification, cause a translation thereof in the language of the country to be published in the manner prescribed for the proclamation under section 6 — Publication of translation of such notification in neighbourhood of forest.

20. The Local Government may, within five years from the publication of any notification under section 17, revise any arrangement made under section 13 or 16, and may rescind or modify any order made under this Chapter and direct that any one of the proceedings specified in section 13 be taken in lieu of the other of such proceedings, or that a right admitted under section 12 be commuted in the manner mentioned in section 14 — Power to revise arrangement made under section 13 or 16

21. No right of any description shall be acquired in or over a reserved forest, except by succession or under grant or contract in writing made by, or with the previous sanction of, the Governor General in Council, or some person in whom such right, or the power to create such right, was vested when the notification under section 17 was published — Acquisition of rights over reserved forests.

22. (*1*) Notwithstanding anything herein contained, no right continued under section 13 shall be alienated by way of grant, sale, lease, mortgage or otherwise without the previous sanction of the Local Government — Alienation of rights in reserved forests

Provided that, when any such right is continued for the beneficial enjoyment of any land or building, it may be sold or otherwise alienated with such land or building without such sanction

(2) The benefit of any right continued under section 13 shall not be leased, sold or bartered, except to the extent defined by the order recorded under that section

23. Any Forest officer may, from time to time, with the previous sanction of the Local Government or of a Forest-officer or other officer authorised by the Local Government in this behalf, stop any public or private way or water-course in a reserved forest — Power to stop ways and water courses in reserved forests.

Provided that for the way or water-course so stopped another way or water-course which, in the opinion of the Local Government is equally convenient already exists or has been provided or constructed by the Forest-officer stopping the way or water-course

24. Any person who in a reserved forest— — Penalties for trespass or damage in reserved forests.

(*a*) trespasses, or pastures cattle, or permits cattle to trespass, or

(*b*) causes any damage by negligence in felling any tree or cutting or dragging any timber, or

(*c*) poisons water or, in contravention of any rules made by the Local Government hunts, shoots, fishes, or sets traps or snares,

shall be punished with fine which may extend to fifty rupees, or, when the damage resulting from his offence amounts to more than twenty-five rupees, to double the amount of such damage.

Acts prohibited in such forests.

25. Any person who—

(*a*) makes any fresh clearing prohibited by section 7, or

(*b*) sets fire to a reserved forest, or, in contravention of any rules made by the Local Government, kindles any fire, or leaves any fire burning, in such manner as to endanger such a forest,

or who, in any such forest,

(*c*) kindles, keeps or carries any fire except at such seasons and in such manner as a Forest-officer specially empowered in this behalf may from time to time notify, or

(*d*) fells, cuts, girdles, marks, lops, taps or injures by fire or otherwise any tree, or

(*e*) quarries stone, burns lime or charcoal, or collects, subjects to any manufacturing process or removes any forest-produce, or

(*f*) clears or breaks up any land for cultivation or any other purpose,

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Acts excepted from sections 24 and 25.

26. Nothing in section 24 or section 25 shall be deemed to prohibit—

(*a*) any practice of jhum-cultivation permitted under section 10, or

(*b*) the exercise, in accordance with the rules, if any, made by the Local Government under section 13, of any right continued under that section, or

(*c*) the exercise of any right created by grant or contract in the manner described in section 21, or

(*d*) any act done with the permission in writing of a Forest-officer specially empowered to grant such permission.

Penalty for offences committed by persons having rights in reserved forests.

27. Whenever fire is caused wilfully or by gross negligence in a reserved forest by any person having rights in such forest or permission to practise jhum-cultivation therein, or by any person in his employment, or whenever any person having rights in such forest contravenes the provisions of section 22, the Local Government may, notwithstanding the infliction of any punishment under this Regulation, direct that in such forest, or any specified portion thereof, the exercise of all or any of the rights of pasture or to forest-produce shall be extinguished, or for such period as it thinks fit be suspended, and, with respect to the practice of jhum-cultivation, may take such action under section 10, sub-section (*4*), as may seem to it to be proper.

28. (*1*) The Local Government [1][subject to the control] of the Governor General in Council, may, by notification in the official Gazette, direct that, from a date to be fixed by such notification, any forest, or any portion thereof, reserved under this Regulation shall cease to be reserved. Power to declare forests no longer reserved

(*2*) From the date so fixed such forest or portion shall cease to be reserved, but the rights, if any, which have been extinguished therein, shall not revive in consequence of such cessation

CHAPTER III

Village-forests

29. (*1*) The Local Government may by notification in the official Gazette constitute any land at the disposal of the Government a village-forest for the benefit of any village-community or group of village communities, and may, in like manner, vary or cancel any such notification Constitution of village-forests

(*2*) Every such notification shall specify the limits of such village-forest

30. (*1*) The Local Government may make rules for regulating the management of village-forests, prescribing the conditions under which the community or group of communities for the benefit of which any such forest is constituted may be provided with forest-produce or with pasture, and their duties in respect of the protection and improvement of such forest Power to make rules for village-forests

(*2*) The Local Government may, by such rules, declare any of the provisions of Chapter II of this Regulation to be applicable to village-forests.

31. All claims to any rights other than the rights of the village-community or group of village-communities for the benefit of which such village-forest is constituted shall be inquired into, recorded and provided for in the manner prescribed by Chapter II of this Regulation Inquiry into and settlement of, rights

CHAPTER IV

General protection of Forests and Forest-produce

32. The Local Government may, by notification in the official Gazette,— Reserved trees in unsettled tracts

(*a*) declare that any trees or any specified class of trees standing on any land at the disposal of the Government shall, from a date to be fixed by such notification, be reserved trees,

(*b*) vary or cancel any such notification

33. No person shall fell, cut, girdle, mark, lop, tap or injure by fire or otherwise any reserved tree, except in accordance with rules made by the Local Government in this behalf or as provided by the last section of this Chapter Protection of reserved trees

34. (*1*) No person shall make use of any forest-produce of any land at the disposal of the Government and not included in a reserved forest or village- Protection of unsettled forests be

[1] Substituted for the words "with the previous sanction" by the Assam Forest (Amendment) Regulation, 1912 (III of 1912), *post*

[illegible] with rules to be made by the Local Govern- [illegible] as provided by the last section of this Chapter.

(2) [illegible] land, —

(a) [illegible] the cutting of [illegible] or the [illegible] of grants or [illegible] of the Government;

(b) [illegible] the kindling of [illegible] and [illegible] the precau- [illegible] to prevent the spreading of [illegible];

(c) [illegible] lopping, [illegible] the sawing, [illegible] and removal [illegible];

(d) [illegible] of catechu or [illegible];

(e) [illegible] cattle, and [illegible] cutting or [illegible];

(f) [illegible] and regulate or prohibit hunting, [illegible] traps or snares;

(g) [illegible] of forest-produce; and

(h) [illegible] subject to the [illegible] fees, royalties or other pay- [illegible] in which such fees, [illegible] whether in transit, [illegible]

(3) The Local Government may exempt any person or class of persons [illegible] the operation of any such rule, and may cancel such exemption.

[illegible] **35.** (1) [illegible] the provisions of section 33, he shall be [illegible] for a term which may extend to six months, or [illegible] hundred rupees, or with both.

(2) The Local Government may, by a rule under section 34, attach to [illegible] under that section any punishment not exceeding that [illegible] sub-section (1).

[illegible] **36.** Nothing in this Chapter, or in any rule under this Chapter, shall be deemed to prohibit any act done in the exercise of any right or with the permission in writing of a Forest-officer specially empowered to grant such permission.

CHAPTER V.

DUTY ON IMPORTED FOREST-PRODUCE.

Power to impose duty **37.** (1) The Local Government may, with the previous sanction of the Governor General in Council, levy a duty, in such manner, at such places and

at such rates as it may prescribe by notification in the official Gazette, on all forest-produce which is brought into the territories to which this Regulation extends from any place beyond those territories on forest-produce.

(2) In every case in which such duty is directed to be levied *ad valorem*, the Local Government may, by like notification, determine the manner in which the value is to be ascertained

38. The Local Government may exempt any forest-produce from the duty to which it is liable under the last foregoing section, and revoke such exemption Power to exempt forest produce from duty.

39. Nothing in this Chapter shall be deemed to limit the amount, if any, chargeable as purchase-money or royalty in respect of any forest-produce Provisions of Chapter not to limit purchase money or royalty.

CHAPTER VI

CONTROL OF FOREST PRODUCE IN TRANSIT

40. (1) The control of all rivers and their banks as regards the floating of timber, as well as the control of all forest-produce in transit by land or water, is vested in the Local Government, and that Government may make rules to regulate the transit of any forest-produce Power to make rules to regulate transit of forest produce

(2) Such rules may, among other matters,—

(a) prescribe the routes by which alone forest-produce may be imported into, exported from or moved within the territories to which this Regulation extends,

(b) prohibit the import, export, collection or moving of forest-produce without a pass from an officer authorised to issue the same, or otherwise than in accordance with the conditions of such pass,

(c) provide for the issue, production and return of such passes,

(d) fix, or authorise any Forest-officer, subject to the control of the Local Government, to fix the fees payable for such passes,

(e) in the case of timber formed into a raft or fastened to the shore, prohibit the loosening or the setting adrift of such timber by any person not the owner thereof or not acting on behalf of such owner or of the Government,

(f) provide for the stoppage, reporting, examination and marking of forest-produce in transit, in respect of which there is reason to believe that any money is payable to the Government, or to which it is desirable, for the purposes of this Regulation, to affix a mark;

(g) establish revenue-stations to which forest-produce is to be taken by the persons in charge of it for examination, or for the realization of such money, or in order that such mark may be affixed to it, and prescribe, or authorise a Forest-officer, subject to such control as aforesaid, to prescribe, the conditions under which forest-

produce is to be brought to, stored at and removed from such revenue-stations ;

(*h*) provide for the management and control of such revenue-stations, and for regulating the appointment and duties of persons employed thereat ;

(*i*) authorise the transport of timber across any land, and provide for the award and payment of compensation for any damage done by the transport of such timber ;

(*j*) prohibit the closing up or obstruction of the channel or banks of any river used for the transit of forest-produce, and the throwing of grass, brushwood, branches or leaves into any such river, or any other act which tends to cause the obstruction of such channel ;

(*k*) provide for the prevention and removal of any obstruction in the channel or on the banks of any such river, and for recovering the cost of such prevention or removal from the person causing such obstruction ;

(*l*) prohibit absolutely, or subject to conditions, within specified local limits, the establishment of sawpits, the converting, cutting, burning, concealing, marking or supermarking of timber, the altering or effacing of any marks on the same, and possession or carrying of marking-hammers or other implements used for marking timber ; and

(*m*) regulate the use of property-marks for timber and the registration of such marks, authorise the refusal or cancellation of the registration of any property-marks, prescribe the time for which the registration of property-marks is to hold good, limit the number of such marks which may be registered by any one person, and provide for the levy of fees for such registration.

(*3*) The Local Government may direct that any rule made under this section shall not apply to any specified class of timber or other forest-produce or to any specified local area.

Penalties for breach of rules under the last foregoing section.

41. (*1*) The Local Government may, by a rule under the last foregoing section, attach to the breach of any rule under that section any punishment not exceeding imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

(*2*) In cases where the offence is committed after sunset and before sunrise or after preparation for resistance to the execution of any law or any legal process, or where the offender has been previously convicted of a like offence, the convicting Court may inflict double the penalty prescribed for such offences.

All persons bound to aid in case of accident at revenue-station.

42. In case of any accident or emergency involving danger to any property at a revenue-station established under a rule made under section 40, every person employed at such revenue-station, whether by the Government or by any private person, shall render assistance to any Forest-officer or Police-

officer demanding his aid in averting such danger and securing such property from damage or loss

CHAPTER VII

Collection of Drift, Stranded and other Timber

Certain kinds of timber to be deemed the property of the Government until title thereto proved

43. (*1*) Timber falling under any of the following descriptions, namely —

(*a*) timber found adrift, breached, stranded or sunk,

(*b*) timber bearing marks which have not been registered under rules made under section 40,

(*c*) timber which has been supermarked, or on which marks have been obliterated, altered or defaced by fire or otherwise, and

(*d*) in such areas as the Local Government directs, all unmarked timber,

shall be deemed to be the property of the Government unless and until any person establishes his right thereto as provided in this Chapter

(*2*) Such timber may be collected by any Forest officer or other person entitled to collect the same, and may be brought to such stations as a Forest-officer specially empowered in this behalf may, from time to time, notify as stations for the reception of drift timber

(*3*) The Local Government may, by notification in the official Gazette, exempt any class of timber from the provisions of this section and withdraw such exemption

Notice to claimants of timber of those kinds

44. (*1*) Public notice shall, from time to time as occasion may require be given by a Forest officer specially empowered in this behalf of timber collected under the last foregoing section

(*2*) Such notice shall contain a description of the timber and shall require any person claiming the same to present to such officer, within a period not less than one month from the date on which such notice is given, a written statement of such claim

Procedure on claim preferred to such timber

45. (*1*) When any such statement is presented as aforesaid the Forest-officer may, after making such inquiry as he thinks fit, either reject the claim after recording his reasons for so doing or deliver the timber to the claimant

(*2*) If such timber is claimed by more than one person, the Forest officer may either deliver the same to any of such persons whom he deems entitled thereto, or may refer the claimants to the Civil Court and retain the timber pending the receipt of an order from such Court for its disposal

(*3*) Any person whose claim has been rejected under this section may, within three months from the date of such rejection, institute a suit to recover possession of the timber claimed by him, but no person shall recover any compensation against the Government or against any Forest-officer on account of such rejection, or the detention or removal of any timber or the delivery thereof to any other person under this section

(*4*) No such timber shall be subject to process of any Civil Court until it has been delivered, or a suit brought under this section has been decided.

Disposal of unclaimed timber.

46. Where no statement is presented in the manner and within the period prescribed by notice issued under section 44, or, where such statement having been so presented and the claim rejected, the claimant omits to institute a suit to recover possession of such timber within the further period mentioned in section 45, the ownership of such timber shall vest in the Government free from all incumbrances or, when such timber has been delivered to another person under section 45, in such other person free from all incumbrances not created by him.

Payments to be made by claimant before timber is delivered to him.

47. No person shall be entitled to recover possession of any timber collected or delivered as aforesaid until such sum as may be due for salving, collecting, moving, storing and disposing of the timber has been paid by him to the Forest-officer or other person entitled to receive the sum.

Power to make rules and prescribe penalties.

48. (*1*) The Local Government may make rules to regulate the following matters, namely :—

(*a*) the salving, collection and disposal of all timber mentioned in section 43 ;

(*b*) the use and registration of boats used in salving and collecting timber ;

(*c*) the amount to be paid for salving, collecting, moving, storing and disposing of such timber ; and

(*d*) the use and registration of hammers and other implements to be used for marking such timber.

(*2*) The Local Government may, by a rule under this section, attach to the breach of any rule under this section any punishment not exceeding imprisonment for a term which extend to six months, or fine which may extend to five hundred rupees, or both.

CHAPTER VIII.

PENALTIES AND PROCEDURE.

Seizure of property liable to confiscation.

49. (*1*) When there is reason to believe that a forest-offence has been committed in respect of any forest-produce, such produce, together with all tools, boats, carts and cattle used in the commission of such alleged offence may be seized by any Forest-officer or Police-officer.

(*2*) Every officer seizing any property under this section shall place on such property, or the receptacle, if any, in which it is contained, a mark indicating that the same has been so seized, and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the person accused of the offence on account of which the seizure has been made :

Provided that, when the forest-produce with respect to which such offence is believed to have been committed is the property of the Government and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior

Procedure on receipt by Magistrate of report of seizure.

50. Upon the receipt of any such report, the Magistrate shall take such measures as may be necessary for the trial of the accused and the disposal of the property according to law

Forest produce, tools, etc when liable to confiscation

51. (*1*) When any person is convicted of a forest-offence, all forest-produce which is not the property of the Government, and in respect of which such offence has been committed, and all tools, boats, carts and cattle used in the commission of such offence, shall be liable, by order of the convicting Court, to confiscation

(*2*) Such confiscation may be in addition to any other punishment prescribed for such offence

Disposal on conclusion of trial for forest offence of produce in respect of which it was committed

52. When the trial of any forest-offence is concluded, any forest-produce in respect of which such offence has been committed shall, if it is the property of the Government or has been confiscated, be taken possession of by a Forest-officer specially empowered in this behalf, and, in any other case, shall be disposed of in such manner as the Court may order

Procedure when offender is not known or cannot be found

53. (*1*) When the offender is not known or cannot be found, the Magistrate inquiring into the offence, if he finds that an offence has been committed, may, on application in this behalf, order the property in respect of which the offence has been committed to be confiscated and taken possession of by a Forest-officer specially empowered in this behalf, or to be made over to such Forest-officer or other person as the Magistrate may consider entitled to the same

Provided that no such order shall be made till the expiration of one month from the date of the seizure of such property, or without hearing the person, if any, claiming any right thereto, and the evidence, if any, which he may produce in support of his claim

(*2*) The Magistrate shall either cause a notice of any application under sub-section (*1*) to be served upon any person whom he has reason to believe to be interested in the property seized, or publish such notice in any way which he may think fit

Procedure as to perishable property seized under section 49

54. The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under section 49 and subject to speedy and natural decay, and may deal with the proceeds as he might have dealt with such property if it had not been sold

Appeal from orders under sections 51, 52 and 53

55. Any person claiming to be interested in property seized under section 49 may, within one month from the date of any order passed by a Magistrate under section 51, section 52 or section 53, present an appeal therefrom to the Court to which orders made by such Magistrate are ordinarily appealable, and the order passed on such appeal shall be final

Vesting of confiscated property in

56. When an order for the confiscation of any property has been passed under section 51 or section 53, and the period limited by section 55 for pre-

the Government.

senting an appeal from such order has elapsed, and no such appeal has been presented, or when, on such an appeal being presented, the Appellate Court confirms such order in respect of the whole or a portion of such property, such property or portion, as the case may be, shall vest in the Government free from all incumbrances.

Saving of power to release property seized.

57. Nothing hereinbefore contained shall be deemed to prevent any Forest-officer or other officer empowered in this behalf by the Local Government from directing, at any time, the immediate release of any property seized under section 49 which is not the property of the Government and the withdrawal of any charge made in respect of such property.

Punishment for wrongful seizure.

58. (*1*) Any Forest-officer or Police-officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Regulation shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(*2*) Any fine so imposed, or any portion thereof, shall, if the convicting Court so direct, be given as compensation to the person aggrieved by such seizure.

Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary-marks.

59. Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the [1]Indian Penal Code,— XLV

(*a*) knowingly counterfeits upon any tree or timber a mark used by Forest-officers to indicate that such tree or timber is the property of the Government or of some person, or that it may lawfully be felled or removed by some person, or

(*b*) unlawfully affixes to any tree or timber a mark used by Forest-officers, or

(*c*) alters, defaces or obliterates any such mark placed on any tree or timber by, or under the authority of, a Forest-officer, or

(*d*) alters, moves, destroys or defaces any boundary-mark of any forest or waste-land to which any provisions of this Regulation apply,

shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

Power to arrest without warrant.

60. (*1*) Any Forest-officer or Police-officer may, without orders from a Magistrate and without a warrant, arrest any person reasonably suspected of having been concerned in any forest-offence punishable with imprisonment for one month or upwards, if such person refuses to give his name and residence, or gives a name or residence which there is reason to believe to be false, or if there is reason to believe that he will abscond.

(*2*) Every officer making an arrest under this section shall, without unnecessary delay, take or send the person arrested before a Magistrate having jurisdiction in the case, or to the officer in charge of the nearest police-station.

Power to prevent commission of offence.

61. It shall be the duty of every Forest-officer and Police-officer to prevent, and any such officer may interfere for the purpose of preventing, the commission of any forest-offence.

[1] Genl. Acts, Vol. I.

62. (*1*) The Local Government may, by notification in the official Gazette, empower a Forest officer by name, or as holding an office,— Power to compound offences

(*a*) to accept from any person against whom a reasonable suspicion exists that he has committed any forest offence, other than an offence specified in section 58 or section 59, a sum of money by way of compensation for the offence which such person is suspected to have committed, and,

(*b*) when any property has been seized as liable to confiscation, to release the same on payment of the value thereof as estimated by such officer

(*2*) On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the suspected person, if in custody, shall be discharged, the property, if any, seized shall be released, and no further proceedings shall be taken against such person or property

(*3*) No Forest officer shall be empowered under this section unless he is a Forest officer of a rank not inferior to that of a Forest-ranger, and is in receipt of a monthly salary amounting to at least one hundred rupees, and the sum of money accepted as compensation under sub section (*1*), clause (*a*), shall in no case exceed the sum of fifty rupees

63. When in any proceedings taken under this Regulation, or in consequence of anything done under this Regulation a question arises as to whether any forest produce is the property of the Government, such produce shall be presumed to be the property of the Government until the contrary is proved Presumption in favour of forest produce belonging to the Government.

64. (*1*) When any person is convicted of felling cutting girdling marking, lopping or tapping trees, or of injuring them by fire or otherwise, in contravention of this Regulation or of any rule thereunder, the convicting Court may, in addition to any other punishment which it may award order that person to pay to the Government such compensation, not exceeding ten rupees for each tree, with respect to which the offence was committed as it may deem just Compensation for damage caused by commission of offences

(*2*) If the person convicted of the offence committed it as the agent or servant of another person, the convicting Court may unless after hearing that other person it is satisfied that the commission of the offence was not a consequence of his instigation, or of any neglect or default on his part order him, instead of the person who committed the offence, to pay the compensation referred to in sub section (*1*)

(*3*) An appeal from any order under sub section (*1*) or sub section (*2*) shall lie to the Court to which orders made by the convicting Court are ordinarily appealable, and the order passed on such appeal shall be final

65. When the holder of any lease, license or contract whatsoever granted or continued by or on behalf of the Government for any of the purposes of this Regulation commits an offence against this Regulation or any rule thereunder, or when any such offence is committed by any agent or servant of the holder of any such lease, license or contract, and the Local Government is satisfied that the commission of the offence was a consequence of the insti- Forfeiture of leases

gation of such holder or of any neglect or default on his part, the Local Government may, by order in writing, declare the lease, license or contract to be forfeited in whole or in part with effect on and from a date to be specified in the order not being prior to the date of the commission of the offence.

CHAPTER IX.

CATTLE-TRESPASS.

Cattle-trespass Act, 1871, to apply.

66. Cattle trespassing in a reserved forest or in a village-forest shall be deemed to be cattle doing damage to a public plantation within the meaning of section 11 of the Cattle-trespass Act, 1871 [1], and may be seized and impounded as such by any Forest-officer or Police-officer. I of 18

Power to alter fines fixed by that Act.

67. The Local Government may, by notification in the official Gazette, direct that, in lieu of the fines fixed by section 12 of the Act last aforesaid, there shall be levied for each head of cattle impounded under section 66 of this Regulation such fines as it thinks fit, but not exceeding the following, namely :—

	Rs.	A.	P.
For each elephant	10	0	0
For each buffalo	2	0	0
For each horse, mare, gelding, pony, colt, filly, mule, bull, bullock, cow or heifer	1	0	0
For each calf, ass, pig, ram, ewe, sheep, lamb, goat or kid . .	0	8	0

CHAPTER X.

FOREST-OFFICERS.

Investiture of Forest-officers with certain powers.

68. (*1*) The Local Government may invest any Forest-officer by name, or as holding an office, with all or any of the following powers, namely :—

(*a*) power to enter upon any land and to survey, demarcate and make a map of the same ;

(*b*) the powers of a Civil Court to compel the attendance of witnesses and the production of documents ;

(*c*) power to issue search-warrants under the Code of Criminal Procedure, 1882 [2] ; X of 18

(*d*) power to hold inquiries into Forest-offences, and in the course of such inquiries to receive and record evidence ;

(*e*) power to notify the seasons and manner in which fire may be kindled, kept or carried in a reserved forest ;

(*f*) power to grant any permission referred to in sections 26 and 36 ;

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[1] Genl. Acts, Vol. II.

[2] Act X of 1882 has been repealed and re-enacted by Act V of 1898 (the Code of Criminal Procedure, 1898), and this reference should now be taken to be made to the latter Act—*see* s. 3 (*1*) thereof, in Genl. Acts, Vol. V.

(*g*) power to notify stations for the reception of drift timber,

(*h*) power to give public notice of timber collected under section 43,

(*i*) power to take possession of property under this Regulation,

(*j*) power to direct the release of property or withdrawal of charges,
and may withdraw any power so conferred

(2) Any evidence recorded under clause (*d*) of sub-section (*1*) shall be admissible in any subsequent trial before a Magistrate of the alleged offender

Provided that it has been taken in the presence of the accused person and recorded in the manner provided by section 355, section 356 or section 357 of the Code of Criminal Procedure, 1882 [1]

Forest officers deemed public servants

69. All Forest-officers shall be deemed to be public servants within the
360 meaning of the Indian Penal Code [2]

Indemnity for acts done in good faith

70. No suit or criminal prosecution shall lie against any public servant for anything done or omitted by him in good faith under this Regulation

Forest officers not to trade

71. No Forest-officer shall, as principal or agent, trade in forest-produce, or be or become interested in any lease or mortgage of any forest, or in any contract for working any forest, whether in British or foreign territory

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CHAPTER XI

SUPPLEMENTAL PROVISIONS

Additional powers to make rules.

72. The Local Government may make rules, consistent with this Regulation,—

(*a*) to declare by what Forest-officer or class of Forest-officers the powers or duties conferred or imposed by or under this Regulation on a Forest-officer are to be exercised or performed,

(*b*) to regulate the procedure of Forest-settlement-officers,

(*c*) to regulate the rewards to be paid to officers and informers from the proceeds of fines and confiscations under this Regulation or from the public treasury, and,

(*d*) generally, to carry out the provisions of this Regulation

Rules when to have force of law.

73. All rules made by the Local Government under this Regulation shall be published in the official Gazette, and shall thereupon have the force of law

Persons bound to assist Forest-

74. Every person who exercises any right in a reserved forest or village forest, or who is permitted to remove any forest-produce from, or to pasture cattle or practise jhum-cultivation in, such forest, and

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[1] Act X of 1882 has been repealed and re enacted by Act V of 1898 (the Code of Criminal Procedure 1898) *see* Genl Acts, Vol. V

[2] Genl. Acts, Vol. I

REGULATION 2 OF 1898.

[THE ASSAM FRONTIER TRACTS REGULATION (1880) AMENDMENT REGULATION, 1898.][1]

[23rd April, 1898.]

A Regulation to amend the Assam Frontier Tracts Regulation, 1880.[2]

WHEREAS it is expedient to amend the Assam Frontier Tracts Regulation 1880[2]; It is hereby enacted as follows:—

Short title and commencement. **1.** (*1*) This Regulation may be called the Assam Frontier Tracts Regulation (1880) Amendment Regulation, 1898; and II o

(*2*) It shall come into force on the first day of April, 1898. II o

Amendment of section 1, Regulation II, 1880. **2.** (*1*) In section 1 of the Assam Frontier Tracts Regulation, 1880[2] between the words "territories" and "administered" the words "for the time being" shall be inserted. II o

(*2*) In the same section the last twenty-five words are repealed.

Repeal of Regulation III, 1896. **3.** The South Lushai Hills Regulation, 1896, is repealed. III c

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REGULATION 2 OF 1905.

[THE ASSAM LAND AND REVENUE (AMENDMENT) REGULATION, 1905].[3]

[24th June, 1905.]

A Regulation further to amend the Assam Land and Revenue Regulation, 1886.[4]

I of 1

WHEREAS it is expedient further to amend the Assam Land and Revenue Regulation, 1886[1]; It is hereby enacted as follows:—

Short title, commencement and extent. **1.** (*1*) This Regulation may be called the Assam Land and Revenue (Amendment) Regulation, 1905; and

(*2*) It shall come into force in the whole or any portion of the province of Assam on such dates and to such extent as the Chief Commissioner may, by notification in the local official Gazette, appoint.

Definition. **2.** In this Regulation "section" means a section of the Assam Land and Revenue Regulation, 1886. I of 18

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[1] LOCAL EXTENT.—The local extent of s. 2 of this Regulation is the same as that of s. 1 of Reg. II of 1880, as to which see the "Local Extent" footnote to that Regulation, *ante*.

[2] Printed *ante*.

[3] LOCAL EXTENT.—This Regulation extends to the whole of Assam, but comes into force only when and where notified—*see* s. 1 (2).

It has been declared in force, from the 1st July, 1905, in the districts of Cachar (except the North Cachar Hills), Darrang, Goálpára, Kámrúp, Lakhimpur, Nowgong, Sibságar and Sylhet—*see* Notfn. No. 3154-R., dated 29th June, 1905, in Assam Gazette, 1905, Pt. II, p. 535.

[4] Printed *ante*.

3. For section 12 the following shall be substituted, namely — New section substituted for section 12

12 [Printed *ante* p 255]

4. After section 53 the following shall be inserted, namely — New section inserted after section 53.

53A [Printed *ante* p 264]

5. For section 68 the following shall be substituted, namely — New section substituted for section 68

68 [Printed *ante* p 267]

6. After section 69 the following shall be inserted, namely — Insertion of new section after section 69

Attachment of Defaulting Estate

69A [Printed *ante* p 268]

7. In sub section (2) of section 90, after the words "Deputy Commissioner" the words "may eject the settlement holder from possession and" shall be inserted Amendment of section 90, sub section (2)

8. After section 116 the following shall be inserted, namely — Insertion of new section after section 116

116A [Printed *ante* p 279]

9. After section 144 the following shall be inserted, namely — Insertion of new section after section 144

144A [Printed *ante* p 284]

REGULATION 3 of 1912

[The Assam Forest (Amendment) Regulation 1912]

[*24th April, 1912*]

A Regulation to amend the Assam Forest Regulation, 1891[1]

Whereas it is expedient to amend the Assam Forest Regulation, 1891, It is hereby enacted as follows —

1. This Regulation may be called the Assam Forest (Amendment) Regulation, 1912 Short title.

2. In section 28 of the Assam Forest Regulation, 1891, for the words "with the previous sanction" the words "subject to the control" shall be substituted Amendment of section 28 of Regulation VII of 1891

[1] Printed *ante*

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